4157.

# SUPREME COURT OF THE UNITED STATES.

## No. 207.

THE UNITED STATES, APP'TS,

vs.

THE WIDOW AND HEIRS OF JOSÉ E. BERREYESA, DECEASED.

APPEAL FROM THE DISTRICT COURT U. S. FOR THE NORTHERN DISTRICT OF CALIFORNIA.

INDEX.


| | Original. | Print. |
|---|---|---|
| Petition | 5 | 3 |
| Deposition of Antonio Ma. Pico | 6 | 4 |
| Deposition of Antonio Sunol | 8 | 5 |
| Deposition of Manuel Castro | 10 | 6 |
| Deposition of Juan B. Alvarado | 12 | 6 |
| Deposition of Jose Fernandez | 14 | 7 |
| Deposition of Justo Larios | 16 | 8 |
| Map—Exhibit No. 1, to deposition of Justo Larios | 21 | 11 |
| Deposition of Antonio Maria Pico | 21 | 11 |
| Deposition of Manuel Castro | 27 | 13 |
| Deposition of Thomas E. Evershed | 32 | 15 |
| Deposition of William J. Lewis | 35 | 17 |
| Exhibit No. 1, A. F., to deposition of Wm. J. Lewis | 56 | 26 |
| Deposition of Norman S. Bestor | 57 | 26 |
| Affidavit of F. P. Tracy | 62 | 29 |
| Motion | 63 | 29 |
| Map—Diseno of Berreyesa | 63 | 29 |
| Map—Exhibit No. 1, A. F., to deposition of Wm. J. Lewis | 63 | 29 |
| Deposition of Williaim J. Lewis | 64 | 30 |
| Map—Exhibit A. T. H., to the deposition of Wm. J. Lewis | 74 | 34 |
| Espediente C., to deposition Jose Fernandez | 75 | 35 |


GIDEON, Print.

| | Original. | Print. |
|---|---|---|
| P. L.—Exhibit to deposition Wm. J. Lewis | 75 | 35 |
| Map or plan | 80 | 37 |
| Translation of espediente | 83 | 39 |
| Espediente of Justo Larios | 91 | 43 |
| Map or plan | 93 | 44 |
| B.—Translation of espediente | 96 | 46 |
| Title B., annexed to deposition of J. B. Alvarado | 101 | 48 |
| Translation of title | 104 | 50 |
| Espediente | 108 | 52 |
| Translation of espediente | 112 | 54 |
| Opinion of the board of land commissioners | 116 | 56 |
| Decree of confirmation | 118 | 57 |
| Order | 119 | 58 |
| Certificate of secretary | 120 | 58 |
| Notice of appeal | 121 | 58 |
| Petition | 122 | 59 |
| Answer | 123 | 59 |
| Exhibit M. N., certified copy of espediente | 124 | 60 |
| Stipulation | 128 | 62 |
| Deposition of R. C. Hopkins | 129 | 63 |
| Deposition of Juan B. Alvarado | 131 | 63 |
| Deposition of F. A. Sawyer | 135 | 65 |
| Exhibit W. H. C., No. 1, to deposition of F. A. Sawyer | 136 | 66 |
| Exhibit W. H. C., No. 2, to deposition of F. A. Sawyer | 140 | 68 |
| Exhibit W. H. C., No. 3, to deposition of F. A. Sawyer | 143 | 70 |
| Decree | 145 | 70 |
| Order granting appeal | 147 | 71 |
| Deposition of John B. Brodie | 148 | 72 |
| Brodie translation of Exhibit M. N | 151 | 73 |
| Brodie translation of Berreyesa grant | 155 | 75 |
| Brodie translation of Justo Larios | 157 | 77 |
| Clerk's certificate | 160 | 78 |

OFFICE OF THE BOARD OF COMMISSIONERS
*To ascertain and settle Private Land Claims in the State of Cal'a.*

Be it remembered, that on this thirtieth of December, anno Domini one thousand eight hundred and fifty-two, before the commissioners to ascertain and settle the private land claims in the State of California, sitting as a board in the city of San Francisco, in the State aforesaid, in the United States of America, the following proceedings were had, to wit:

The petition of Maria Z. B. Berreyesa et al., for a league of land near the pueblo of San José, was presented, and ordered to be filed and docketed with No. 503, and is as follows, to wit:

(Vide page 5 of this Transcript.)

Upon which petition the following subsequent proceedings were had in their chronological order, to wit:

SAN FRANCISCO, *Jan'y* 6, 1853.

In case No. 503, Maria Z. B. Berreyesa et al., for one square league of land near the pueblo de San José, the deposition of Antonio Maria Pico, a witness in behalf of the claimants, taken before Commissioner Harry J. Thornton, was filed.

(Vide page 6 of this Transcript.)

SAN FRANCISCO, *Jan'y* 11, 1853.

In the same case, the deposition of Antonio Suñol, a witness in behalf of the claimants, taken before Commissioner Harry J. Thornton, was filed.

(Vide page 8 of this Transcript.)

SAN FRANCISCO, *August* 12, 1853.

In the same case, F. P. Tracey, esq., attorney for the claimants, made the following affidavit, to wit:

(Vide page 60 of this Transcript.)

Whereupon ordered, that the said case be stricken from the trial docket.

SAN FRANCISCO, *December* 10, 1853.

In the same case, the depositions of Manuel Castro and Juan B. Alvarado, witnesses in behalf of the claimants, taken before Commissioner Thompson Campbell—the last, with document T. C. No. 1, annexed thereto—were filed.

(Vide pages 10 and 11 of this Transcript.)

SAN FRANCISCO, *Dec'r* 28, 1853.

In the same case, the deposition of José Fernandez, a witness in behalf of the claimants, taken before Commissioner Thompson Campbell, with document marked "O" annexed thereto, was filed.

(Vide page 13 of this Transcript.)

SAN FRANCISCO, *June* 7, 1854.

In the same case, the deposition of Justo Larios, a witness in behalf of the claimants, taken before Commissioner Peter Lott, with document marked Exhibit No. 1, P. L., annexed thereto, was filed.

(Vide page 15 of this Transcript.)

SAN FRANCISCO, *Dec'r* 5, 1854.

Case No. 503 was ordered to be placed at the foot of the 3d class cases on the trial docket.

SAN FRANCISCO, *Dec'r* 19, 1854.

In the same case, the counsel for the claimant filed the following motion, to wit:

(Vide page 62 of this Transcript.)

Which motion was granted, and the amendments ordered to be made in accordance therewith.

In the same case, the deposition of Thomas E. Evershed, a witness in behalf of the United States, taken before Commissioner Peter Lott, was filed.

(Vide page 30 of this Transcript.)

SAN FRANCISCO, *Dec.* 26, 1854.

In the same case, the deposition of William J. Lewis, a witness in behalf of the United States, taken before Commissioner Peter Lott, with a map marked Exhibit No. 1, A. F., annexed thereto, was filed.

(Vide page 34 of this Transcript.)

SAN FRANCISCO, *Dec.* 31, 1854.

In the same case, the depositions of Manuel Castro and Antonio Maria Pico, witnesses in behalf of the claimants, taken before Commissioner Alpheus Phelps, were filed.

(Vide pages 20 and 25 of this Transcript.)

SAN FRANCISCO, *March* 6, 1855.

In the same case, the deposition of Norman S. Bestor, a witness

in behalf of the United States, taken before Commissioner Peter Lott, was filed.

(Vide page 55 of this Transcript.)

SAN FRANCISCO, *March* 20, 1855.

Case No. 503 was submitted on briefs, and taken under advisement by the board.

In the same case, the deposition of William J. Lewis, a witness in behalf of the United States, taken before the commissioners, sitting as a board, with a map marked Exhibit A, T. H., annexed thereto, was filed.

(Vide page 63 of this Transcript.)

SAN FRANCISCO, *July* 3, 1855.

In the same case, Commissioner R. Aug. Thompson delivered the opinion of the board confirming the claim.

(Vide page 113 of this Transcript.)

And the following order was made, to wit:

(Vide page 117 of this Transcript.)

*Petition.*

To the Hon. the Board of Land Commissioners for ascertaining and settling private land claims in California:

The petition of Maria Z. Bernal Berreyesa, widow of José Reyes Berreyesa, deceased, Maria del Carmel Berreyesa, Loretta Berreyesa, Santiago Berreyesa, José S. Berreyesa, Nemicio Berreyesa, Francisco Berreyesa, Fernando Berreyesa, Magdalina Berreyesa, and José E. Berreyesa, heirs-at-law of said José R. Berreyesa, respectfully represents:

That on the 20th day of August, 1842, a grant of land, consisting of one square league, was made to the said José R. Berreyesa, by Governor John B. Alvarada, by virtue of the law of 18th August, 1820, and regulations of the 21st of Nov'r, 1828; which said land is situated near the pueblo of San José, as is set forth and described in the original title to said land, herewith filed, marked B, as part of this petition.

Your petitioners further represent, that the said José R. Berreyesa took possession of said land, and built a house on it, in 1837; that they have continued to occupy said house and to cultivate and improve said land from that day to the present time.

The evidence relied upon is the title above mentioned, the espediente, which is also herewith filed, marked C, the testimony of witnesses to be produced before this honorable board, and such other and further testimony as they may be advised to be necessary.

All which they submit, and pray the confirmation of their title.

TRACEY, *For Claimants.*

Filed in office, Dec. 30, 1852.

(Signed) GEO. FISHER, *Sec'y.*

*Deposition of Antonio Maria Pico.*

SAN FRANCISCO, *Dec. 30th,* 1852.

On this day, before Commissioner Harry J. Thornton, came Antonio Maria Pico, a witness in behalf of the claimants, Maria Z. B. Berreyesa et als., petition No. 503, and was duly sworn, his evidence being interpreted by the secretary.

The U. S. law agent was present.

Questions by claimants' counsel in case No. 503, on file before the board of land commissioners.

Question 1. What is your name, age, and place of residence?

Answer 1. My name is Antonio Maria Pico; my age is 44 years; and place of residence is at San José.

Question 2. Were you acquainted with the late José Reyes Berreyesa?

Answer 2. I was acquainted with him.

Question 3. Do you know or not whether a grant of land was made to him by the Mexican gvernment; if so, where is said land situated?

Answer 3. I do know that a grant of land was made to him by Governor Alvarado, which is situated about four leagues from the town of San José, and adjoins the rancho de los Capitancillos on the south.

Question 4. Do you know whether he built a house on said land and occupied it, and whether he made any improvements on it, and what were they?

Answer 4. He built a house on said land in 1837, and occupied it with his family. He made a corral on it; had a field in cultivation; also a garden and different kind of fruit trees. It has been constantly occupied and cultivated from 1837 to the present time.

Question 5. Was judicial possession of said land solicited or given?

Answer 5. Judicial possession was not asked or given, further than the settling of the boundary between him and Justo Larios by order of Governor Alvarado.

ANTONIO MA. PICO.

Service acknowledged.

R. GREENHOW,
*Asst. Law Agent.*

Sworn to and subscribed before me this 30th December, 1852.

H. J. THORNTON,
*Comm'r.*

4160

Filed in office December 30th, 1852.
(Signed) GEO. FISHER, *Sec'y.*

*Deposition of Antonio Sunol.*

SAN FRANCISCO, *Jan'y* 11, 1853.

On this day, before Harry J. Thornton, a commissioner, came Antonio Suñol, a witness on behalf of the claimants, Maria Z. B. Berreyesa et als., petition No. 503, and was duly sworn, his evidence being interpreted by the secretary.

The U. S. associate law agent was present.

Questions by claimants' counsel in claim No. 503, on file in the office of the secretary of the board of land commissioners:

Question 1. What is your name, age, and place of residence?

Answer 1. My name is Antonio Suñol; my age is 55 years; and place of residence is at San José.

Question 2. Were you acquainted with the late José Reyes Berreyesa; if so, when did you become acquainted with him, and where?

Answer 2. I was acquainted with him, and became acquainted with him at San José, about thirty-five years ago.

Question 3. Do you know or not whether a grant of land was made to him by the Mexican government, when, and where situated?

Answer 3. I do know that a grant of land was made to him by the Mexican government. It is situated near San José, and adjoining the rancho de los Capitancillos on the southern side.

Question 4. Do you know or not whether said Berreyesa built a house on said land and occupied it, and whether he made improvements on the land and cultivated it; if so, what were the improvements and cultivation?

Answer 4. I know that he built a house on said grant, immediately on taking possession of it in 1834, and occupied it with his family, and that he made corrals on it and cultivated it. He had also stock of cattle and horses on it. It has been occupied constantly from the year 1835 to the present time.

ANTONIO SUNOL.

Notice accepted.

R. GREENHOW,
*U. S. Law Agent.*

Sworn to and subscribed before me 11th January, 1853.

HARRY J. THORNTON,
*Comm'r.*

Filed in office January 11, 1853.
(Signed) GEO. FISHER, *Sec'y.*

*Deposition of Manuel Castro.*

OFFICE OF THE BOARD OF U. S. LAND COMMISSIONERS, &c., &c.

SAN FRANCISCO, *Dec.* 10, 1853.

This day, before Commissioner Thompson Campbell, came Manuel Castro, a witness in behalf of claimants, Maria Z. B. Berreyesa et als., petition No. 503, and being duly sworn, his evidence being in Spanish, was interpreted by the secretary as follows:

Question 1. What is your name, age, and place of residence?

Answer 1. My name is Manuel Castro; I am thirty-two years of age, and I reside in Monterey.

Question 2. Were you acquainted with José Reyes Berreyesa, the grantee in this case, during his lifetime? and if so, examine the paper now shown to you and marked H. T. C., and state whether the names of the persons there described as the heirs-at-law of the said José Reyes Berreyesa are his children and only heirs.

Answer 2. I was acquainted with the said José Reyes Berreyesa during his lifetime; he died in 1846, and I am acquainted with the widow and the children of the said Berreyesa, whose names are correctly described in said paper, and know them to be the children of the said Berreyesa, and they are his heirs-at-law. I also know one son by the name of Ygnacio, whose name is not mentioned in this paper.

*Questions by Associate Law Agent.*

Question 1. Will you name the children of José Reyes Berreyesa?

Answer 1. Their names are as follows: Ygnacio Berreyesa, Santiago, José de los Santos, Nemisio, Francisco, Fernando, Encarnecion: these are all males. The following are females: Carmel, the widow of Lorenzo Pinola, Loretto, the wife of Bojorquez, and Magdalina, the wife of Maximo Fernandez.

MANUEL CASTRO.

Sworn to and subscribed before me, this 10th day of December, A. D. 1853.

THOMPSON CAMPBELL,
*Comm'r.*

Filed in office Dec. 10, 1853.
(Signed) GEO. FISHER, *Sec'y.*

*Deposition of Juan B. Alvarado.*

OFFICE OF THE BOARD OF U. S. LAND COMMISSIONERS, &c., &c.

SAN FRANCISCO, *Dec.* 10, 1853.

This day, before Commissioner Thompson Campbell, came Juan B. Alvarado, a witness in behalf of claimant, Maria Z. B. Ber-

reyesa et als., petition No. 503, and being duly sworn, his evidence being in Spanish, was interpreted by the secretary as follows:

Question 1. What is your name, age, and place of residence?

Answer 1. My name is Juan B. Alvarado; I am forty-four years of age, and I reside in Contra Costa county.

Question 2. Look at the paper now shown you and marked T. C. No. 1, and state whether you are acquainted with the handwriting of Juan B. Alvarado, Manuel Jimeno Estrada, and José Maria Castanares; and if so, state your means of knowledge, and whether their signatures where they appear on said paper are in their proper handwriting?

Answer 2. I have examined said paper, and I am acquainted with the handwriting of the several persons mentioned in the above interrogatory, having frequently seen them write and sign their names, and I recognise said signatures as genuine, that of Juan B. Alvarado being my own signature; and I signed said paper at the time it bears date, as governor of California.

Question 3. Were you acquainted with José Reyes Berreyesa, the grantee in this case? and if so, state all you know in regard to his living on and improving the land embraced in said grant during his lifetime, and also whether his children have continued to occupy it since his death.

Answer 3. I have known the said Berreyesa; I never was upon said land, and can't speak from my personal knowledge in regard to it; I infer that he lived on said land from the fact that I settled a boundary line between him and Justo Larios.

Associate law-agent present.

JUAN B. ALVARADO.

Sworn to and subscribed before me, this 10th day of December, A. D. 1853.

THOMPSON CAMPBELL,
*Comm'r.*

Filed in office Dec. 10, 1853.
(Signed) GEO. FISHER, *Sec'y.*

*Deposition of Jose Fernandez.*

OFFICE OF THE U. S. BOARD OF LAND COMMISSIONERS, &c., &c.
SAN FRANCISCO, *Dec.* 28, 1853.

This day, before Commissioner Thompson Campbell, came José Fernandez, a witness in behalf of claimants, Maria Z. B. Berreyesa et als., petition No. 503, and being sworn, his evidence being in Spanish, was interpreted by the secretary as follows:

Question 1. What is your name, age, and place of residence?

Answer 1. My name is José Fernandez; I am fifty-four years of age, and I reside in Santa Clara Co.

Question 2. Are you acquainted with the rancho called San Vicente Cañada de los Capitancillos, and claimed in this case? If yea, state how long have you known it, and all you know in regard to its occupation and cultivation by the original grantee in his lifetime, and by his heirs since his death.

Answer 2. I know the said rancho, and have known it ever since the latter part of 1834, or the beginning of the year 1835. The last time I was there was in the year 1839; during the first and the last time I was there it was occupied by José Reyes Berreyesa; he had three houses; lived with his family on the place; had cattle and horses on it; had corrals and fences; cultivated the ground extensively; raised large quantities of wheat and corn; had a small orchard, and planted some grape-vines. Berreyesa lived on said place during his lifetime, and his family have continued to reside there ever since. The point represented on the map shown me, and made a part of the espediente filed in the case, and marked with the letter C, at the junction of the two creeks marked on said map as arroyo de los Alamitos, and the arroyo Seco, is the place which was cultivated by the said Berreyesa and his children more extensively than other portions of said land. There were some other cultivated spots on the arroyo de los Alamitos, and particularly one at the crossing of the San José road.

JOSÉ FERNANDEZ.

Associate law agent present.

Sworn to and subscribed before me this 28th day of December, 1853.

THOMPSON CAMPBELL,
*Comm'r.*

Filed in office Dec'r 28, 1853.
(Signed) GEO. FISHER, *Sec'y.*

*Deposition of Justo Larios.*

UNITED STATES OF AMERICA,
*State of California.*

SAN FRANCISCO, *June* 7, 1854.

This day personally came before Peter Lott, a commissioner for taking testimony to be used before the board of U. S. land commissioners in said State, Justo Larios, a witness on behalf of the claimants in case No. 503 on the docket of said board, wherein Maria Z. B. Berreyesa et als. are claimants, and said witness, being first duly sworn, on oath deposed in Spanish, which was interpreted into English by the interpreter to said board, as follows, to wit:

The U. S. law agent is present.

*Questions by Claimant's Counsel.*

Question 1. What is your name, age, and residence?

Answer 1. My name is Justo Larios; my age 47 years; my residence San José, Santa Clara county, California.

Question 2. Are you acquainted with the ranch claimed in this case by the heirs of José Reyes Berreyesa? If yea, state what you know about the dividing line between said ranch and your own land.

Answer 2. I know the place of Berreyesa, and the line between him and myself was established to run from an oak tree marked on the other side of the arroyo Seco, on a little hill near the junction of that stream with the arroyo de los Alamitos, about 100 varas from said junction; said line was to run in a direct course nearly south across the junction of the creeks to a low hill in the Cañada de los Capitancillos.

Question 3. Are you the same person named in the espediente in this case as the colindante or adjoining proprietor of the ranch or tract claimed in this case by the said heirs of Berreyesa?

Answer 3. Yes, I am the same person.

Question 4. Were you present when the dividing line between your ranch and said Berreyesa's was marked on the ground?

Answer 4. I was present.

Question 5. By whom was that line settled and marked on the ground?

Answer 5. By said Berreyesa and myself; José Fernandez was present when we made our agreement, and he reported our agreement to the governor.

Question 6. Look at the diagram now shown you, marked "Exhibit 1 to deposition of Justo Larios, P. L.," and state whether the line thereon marked as the dividing line between your land and said Berreyesa's is a correct delineation of the same, and also point out such marks or monuments on said line as originally settled and agreed upon, and marked on the line.

6th question objected to by law agent as leading.

Answer 6. This line is a correct representation of the division line between me and the Berreyesa's. We marked the oak tree on the north side of the creek Seco, as the beginning point, and we agreed it should run in a direct course across the creek to and through a small hill in the middle of the cañada, so as to leave the greater portion of said hill on the west side of said line, and this line so runs correctly; this is the first hill going from the starting point, near the junction of the creeks, and the only one near the middle of the cañada, and the form of the hill is here correctly represented.

Question 7. Do you know the place called the Almaden quicksilver mine? If yea, state on which side of the dividing line which you have described, the mouth or entrance into the said mine is

situated, and how far from said line is said mouth or entrance situated?

Answer 7. I do know the quicksilver mine; it is on Berreyesa's side of the line, about 600 or 700 varas, more or less, from said line.

Question 8. How long have you lived on your ranch, adjoining the claimants in this case?

Answer 8. I lived there 8 years before I sold it.

Question 9. Did or not you and said Berreyesa occupy and cultivate said lands with respect to said dividing line as the settled boundary between you?

Answer 9. We did always so respect said line after it was established and agreed upon.

*Cross-examined by U. S. Law Agent.*

Question 1. When and how was the line established between you and Berreysa, and upon what data?

Answer 1. We went before the governor and agreed upon our boundary, and then went back upon the land and marked the tree and other points. José Fernandez was with us when the line was established.

Question 2. How do you know the line you mention in your answer to the 6th question is correct? Give all your means of knowledge. When and by whom was the map made? Are there any landmarks on the surface of the earth corresponding to said line? If yea, who established them, and when and how were they established?

Answer 2. I know it is correct, because Berreyesa and myself agreed upon it. The map was made under my instructions, and by my own descriptions given since I came to town. It was made by the lawyers from a sketch which I drew at the time with a pencil. There is a mark on the oak tree at the beginning point, and there is an oak tree marked at the beginning of the mountains near the mine, and a pile of stones at the top of the mountain. The tree at the beginning point was marked by me and Berreyesa, and the pile of stones and mark on the other tree were placed there by Berreyesa and the surveyor, and the marks on the trees on the mountain were old marks. I suppose Cook marked them, as I gave him the same boundaries when I sold him my ranch.

his
JUSTO ⋈ LARIOS.
mark.

Subscribed and sworn to before me on this 7th day of June, A. D. 1854.

PETER LOTT, *Comm'r.*

Filed in office June 7, 1854.
(Signed) GEO. FISHER, *Sec'y.*

4163

*Exhibit No. 1 to Deposition of Justo Larios.*

[*Here follows map, Exhibit No. 1. See original, page 21.*]

Filed in office June 7, 1854.
(Signed) GEO. FISHER, *Sec'y.*

*Deposition of Antonio Maria Pico.*

U. S. LAND COMMISSION,
*San Francisco, Dec. 30, 1854.*

On this day, before Commissioner Alpheus Felch, came Antonio Maria Pico, a witness on behalf of the claimants, Maria Z. B. Berreyesa et als., in case No. 503, who, after being duly sworn, deposed as follows, his evidence being interpreted by the secretary.

*Questions by Mr. Howard, Att'y for Claimants.*

Question 1. Please state your name, age, and place of residence.

Answer 1. My name is Antonio Maria Pico; my age is forty-five years; and I reside in San José, Cal'a.

Question 2. Are you acquainted with the Rancho de los Capitancillos, claimed in this case by the heirs of José Reyes Berreyesa? If yea, state what you know in relation to the occupation of it.

Answer 2. I know the rancho mentioned in the question. Said Berreyesa himself occupied it with his family, and had horses and cattle on it, and cultivated it. I have seen eight houses of his there at the same time. This occupation has existed since the year 1835, when I was alcalde, and was upon the rancho. Some of the houses were at the mouth of the arroyo called Alamitos, which comes down from the mine of Almaden. The other houses were to the northwest of these, and on another arroyo. The cultivation was near the houses in both places—some on the Alamitos and some on the other arroyo near the houses. There was also cultivation at the junction of the Alamitos with the Arroyo Seco.

Question 3. On whose land is the New Almaden mine situated?

Answer 3. On Berreyesa's.

Question 4. Do you know who first discovered and worked said mine?

Answer 4. Don Antonio Suñol and Don Luis Chaboya, and an old man named Robles, first discovered and worked the mine. Don Antonio Suñol has told me that he worked there in 1824.

Question 5. What was the connection of Andres Castillero with this mine, so far as you know?

Answer 5. José Reyes Berreyesa showed him the mine, and

offered him a part of it. This was in 1845. They had an understanding or agreement before me, but Castillero never complied with it. He went to Mexico; I am not very certain when he went, but think it was in 1846; I have never seen him since he left; I think it was in the latter part of 1845, or early in 1846, that he left. I live about three leagues from said mine.

Question 6. Did Castillero ever work the mine?

Answer 6. The company commenced to work it, but did not work to any extent. Castillero applied to me to go and give him possession of the mine according to the Mexican custom. I went there with him, and pointed out the boundaries which he should take, but no fixed possession was given to him. There was a question between Castillero and Berreyesa. Berreyesa would not consent that possession should be given to Castillero, unless he would admit that he (Berreyesa) should have an interest in the mine. In consequence of this I did not give any fixed possession of the land; at that time they were assaying the mineral.

*Questions by Mr. Blanding, Associate Law Agent.*

Question 1. What was the character of the understanding or agreement mentioned in your answer to the 5th question?

Answer 1. The nature of it was, that Berreyesa was to have shares in the mine, and that he was to be paid for the wood and limestone used in the establishment. After Castillero left, Berreyesa told me he was going to claim of the agent of Castillero the fulfilment of the contract. He made the reclamation of Padre Real, who had charge of all the business (in connection with another person) in the mine. I saw the letter which Berreyesa wrote to the Padre, and the other person having charge, demanding a compliance with the contract. The family of Berreyesa afterwards told me that the letter had been presented. This was about the time the American war broke out. Berreyesa, the grantee, was killed.

Question 2. Were the shares which Berreyesa was to have, to be derived from Castillero, or from whom?

Answer 2. A company was to be formed, and Berreyesa claimed that he should have a right as the owner of the land?

Question 3. Who formed the company, and were there any writings used in forming it?

Answer 3. José Castro, Padre Real, Secondino Robles, Teodoro Robles, and Andres Castillero formed the company. Berreyesa did not belong to the company because they would not admit him. He was always opposed to it because he was the owner of the rancho. I have seen one writing which expressed the terms of the agreement in relation to the company. It was signed by the members of the company above named. Castillero always recognised the right of Berreyesa to the land.

4464

Question 4. How do you know that Castillero recognised Berreyesa's right to the land?

Answer 4. That matter is expressed in the contract which they had between them.

Question 5. State all you know to show the mine is on the land of Berreyesa.

Answer 5. It is on the land of the Berreyesa's, because I have seen the land and have seen the papers, and I have been one of the authorities of the jurisdiction.

Question 6. If Berreyesa had shares in the mine, how could Berreyesa refuse to allow you to give possession to Castillero on the ground that he had none?

Answer 6. He had no shares. They would not give him any.

*Question by Mr. Howard.*

Question 1. How long after the commencement of the war between Mexico and the United States was it before the company commenced working the mine regularly by taking out cinnabar?

Answer 1. I cannot remember when it was that they commenced. Before the war they worked it a little, and after the war commenced they began to sell shares, and the work was then increased.

ANTONIO MA. PICO.

Subscribed and sworn to, before me, this 30th day of December, 1854.

ALPHEUS FELCH, *Comm'r.*

Filed in office December 30, 1854.

(Signed) GEO. FISHER, *Sec'y.*

*Deposition of Manuel Castro.*

UNITED STATES LAND COMMISSION,

*San Francisco, Dec.* 30, 1854.

On this day, before Commissioner Alpheus Felch, came Manuel Castro, a witness on behalf of the claimants, Maria Z. B. Berreyesa et als., in case No. 503, who after being duly sworn, deposed as follows, his evidence being interpreted by the interpreter for the board.

*Questions by Mr. Howard, Att'y for Claimants.*

Question 1. Please state your name, age, and place of residence.

Answer 1. My name is Manuel Castro; my age is thirty-three years; and I reside in the county of Monterey.

Question 2. What employment had you in California in 1845 and 1846?

Answer 2. I was prefect of the district of Monterey, or the northern district of Upper California.

Question 3. Are you acquainted with the rancho of Cañada de los Capitancillos, claimed in this case by the heirs of José Reyes Berreyesa? If yea, state all you know in relation to the occupation or ownership of said rancho by said Berreyesa.

Answer 3. I know the said rancho, and I know that during the administration of Governor Alvarado the said Berreyesa and Justo Larios had a contention in regard to the boundaries. Each of them claimed the same portion of a part of the land. The matter was referred to a committee, but I do not know by whom they were appointed; but the governor issued the grant in accordance with an arrangement made between the committee and the parties.

Question 4. Do you know anything of an application for any portion of the same land by any other party? And if yea, what was the result of the application?

Answer 4. In 1845, Andres Castillero made an application to Pio Pico, then governor, for a grant of a portion—about two leagues—of said land. The part that he asked for was the portion where he had discovered a quicksilver mine. The petition was referred to me, as prefect, for information on the subject, as I knew that there existed a contract to which said Castillero was a party, in which contract said Castillero recognised the right of said Berreyesa to said land. I was surprised that he should petition for the land. I retained the petition some time to inform myself better on the subject. I never made a report on it. Before I was prepared to report, the war with the United States broke out, and the report was never made.

Question 5. Do you know when the mine of New Almaden was first discovered and worked?

Answer 5. There was a rumor before 1845 that the mine existed, and that some examination of it had been made, but I know of its having been worked in the year 1845.

*Questions by Mr. Blanding, Associate Law Agent.*

Question 1. State the character of the arrangement between the parties referred to by you, and how you know that the grant was issued in pursuance of an arrangement between the committee and the parties.

Answer 1. I saw the espediente of the contention between Larios and Berreyesa in the office of the governor. The report of the committee was a part of the espediente. Francisco Arce told me that the grant was issued according to the arrangement stated in the report of the committee. Arce was at that time first officer in the office of the secretary of the government.

Question 2. With whom was the contract with Castillero made, and what was its purport?

4165

Answer 2. The parties to said contract were José Castro, Andres Castillero, the Priest José Maria Real, Secondino Robles, and Teodoro Robles. By the contract the mine was to be divided into twenty-four shares, and it was stipulated that of these shares José Castro should have four, the Priest José Maria Real four, Secundino Robles and Teodoro Robles four, and Andres Castillero the remaing twelve shares. There were some provisions in the contract in relation to the working of the mine.

Question 3. By whom and when was said mine first worked?

Answer 3. When I first saw it worked it was worked by said Castillero. This was in 1845, in the latter part of the year.

*Questions by Mr. Howard.*

Question 1. Do you know anything of the mine being discovered and worked by Suñol and Chaboya; if so, when?

Answer 1. In 1845 I heard a rumor of its having been discovered years ago. When I heard that it was discovered in 1845 by Castillero, I heard it also said that this was no new discovery, but that it had been discovered years ago by Suñol.

Mr. Blanding objects to this answer as hearsay evidence.

Question 2. How did the contract of which you speak recognise the right of Berreyesa to said mine?

Answer 2. In the contract it was expressed that the mine was on the land of said Berreyesa.

Question 3. When did Castillero leave California?

Answer 3. In the beginning of the year 1846 he left for Mexico.

MANUEL CASTRO.

Subscribed and sworn to before me this 30th day of December, 1854.

ALPHEUS FELCH,
*Comm'r.*

Filed in office Dec. 30, 1854.
(Signed) GEO. FISHER, *Sec'y.*

*Deposition of Thomas E. Evershed.*

UNITED STATES OF AMERICA,
*State of California, ss.*

SAN FRANCISCO, *Dec.* 18, 1854.

This day came before Peter Lott, commissioner for taking testimony to be used before the board of U. S. land commissioners in said State, Thomas E. Evershed, a witness on behalf of the United States, in case No. 503 on the docket of said board, wherein Maria Z. B. Berreyesa et als. are claimants, and the said witness being sworn, deposed as follows:

Messrs. Howard, Thornton, and Williams are present, as counsel for claimants.

*Questions by U. S. Law Agent.*

Question 1. What is your name, age, and residence?

Answer 1. My name is Thomas E. Evershed; my age 30 years; my residence San Francisco, California.

Question 2. State what office you now hold.

Answer 2. I am one of the archive clerks in the office of the U. S. surveyor general for the State of California.

Question 3. Look at the document entitled "Espediente promovido por el ciudadano José Reyes Berreyesa en solicotad del parage nombrado la Cañada de los Capitancillos," numbered 293, and state where it came from, and who brought it before this commission.

Answer 3. It is one of the documents belonging among, and forming a part of, the Spanish and Mexican archives now in the custody of the U. S. surveyor general for California, and I have just brought it here with me to be used in taking the testimony in this case.

*Cross-examined by Claimant's Counsel.*

Question 1. State whether the book containing the registry of titles from 1836 to the change of governments is among the archives in the custody of the surveyor general aforesaid; if nay, what has become of it?

Answer 1. There is no such book of the registry of titles for the time referred to, and from an official letter of Captain Folsom, now on file in the office of the U. S. surveyor general for California, it appears that a book purporting to contain a registry of titles for the time referred to was in his possession, and subsequently lost among other papers in the conflagration in San Francisco in 1851.

*Re-examined by U. S. Law Agent.*

Question 1.

The law agent waives any further question.

THOMAS E. EVERSHED.

*Cross-examined by Claimant's Counsel.*

Question 1. State whether in the espediente you have already referred to the pages 14 to 17, inclusive, were not found in the office of the U. S. surveyor general for California as a separate espediente, not connected with that which now precedes it in this document, and whether it was not stitched together and paged in said office.

Answer 1. The pages referred to were attached and made part of this espediente 293 by myself, as forming part of the subject-matter of said espediente; said pages, from 14 to 17 inclusive, to the best of my recollection, were loosely put with espediente 294, in which espediente Justo Larios is granted to a tract of the same name,

Cañada de los Capitancillos; having had occasion to examine both espedientes, I found said pages, from 14 to 17, were not indexed as belonging to a separate document. At the time of the making said examination, all papers belonging to espedientes were pretty much completed and indexed in their proper place; such being the case, I attached said pages, from 14 to 17, inclusive, to espediente 293, of which they are now a part. I did this about a year ago, and since Col. Hays entered upon the duties of the office of U. S. surveyor general for California.

THOS. E. EVERSHED.

Subscribed and sworn to before me on the eighteenth day of December, A. D. 1854.

PETER LOTT, *Comm'r.*

Filed in office Dec. 19, 1854.

(Signed) GEO. FISHER, *Sec'y.*

*Deposition of William J. Lewis.*

IN THE U. S. LAND COMMISSION,
*San Francisco, Dec.* 15, 1854.

William J. Lewis being sworn as a witness on behalf of the United States, in case No. 503, wherein Maria Z. B. Berreyesa et als. are claimants, deposed as follows:

This deposition was taken partly before Alpheus Felch, commissioner, and concluded before Peter Lott, comm'r for taking testimony.

Claimant's counsel, Judge Thornton, and Mr. Howard, present.

*Questions by the Law Agent.*

Question 1. Please state your name, age, and place of residence.

Answer 1. My name is William J. Lewis; my age forty-two years; and I reside in Santa Clara county, California.

Question 2. What is your profession and occupation?

Answer 2. Surveying and engineering; I am county surveyor of the county of Santa Clara, and have been so since July, 1850. I have resided in said county since December, 1844.

Question 3. Have you made many surveys of lands claimed under Spanish titles, and are you acquainted with Spanish terms and names, designating the natural objects used as describing boundaries and localities in Mexican titles?

Answer 3. I have surveyed a considerable number of ranchos claimed under Mexican and Spanish titles; have some acquaintance with the Spanish language, and understand the meaning of the words used in those titles referring to natural boundaries.

Question 4. Are you acquainted with the tract of land claimed in this case known as the rancho of San Vicente or La Cañada de los Capitancillos? If yea, state the extent of your knowledge, and the means by which your information was acquired.

Answer 4. I know said rancho, having made a survey of it in September, 1850, according to the boundaries claimed by Hepburn, Roman and others, who represented themselves as acting for the Berreyesas, the present claimants. I have been on the rancho repeatedly since.

Question 5. Please examine the map now shown you, marked "Exhibit No. 1," with the initials "A. F.," annexed to this deposition, and state how and by whom it was made, of what land it is a survey, and whether or not it is a correct representation of the land it purports to describe, both as regards quantity and topography.

Answer 5. This map was made partly by myself and partly by Mr. Day, under my immediate supervision, and is a correct representation of a survey of the land made by me. It is a survey of the land made by me. It is a survey of the rancho above mentioned. The topography is also correctly represented on it, and the quantity within the limits of said survey is correctly stated thereon.

This question and answer are objected to by Judge Thornton and Mr. Howard, who appear for the claimants.

Question 6. Did you ever make a plat of your survey of this ranch; and if so, is this map a correct copy of it?

Answer 6. I did make such plat of this survey, and this map is a precise copy of the boundaries as delineated on said original plat. The topography was roughly sketched in the former map, and has been delineated in a more finished style on this map. The position of the prominent objects is the same on both maps, and there is no difference of any importance between them, except in the style of finish.

This question and answer objected to by claimant's counsel.

Question 7. How many Spanish leagues does this survey contain; how many acres according to the measurement and in the surveys of the public lands of the United States? In estimating the Spanish league, how many acres have you made it contain?

Answer 7. The survey contains two and $\frac{36}{100}$ Mexican leagues, or ten thousand two hundred and sixty-five acres. The Mexican league contains four thousand three hundred and forty $\frac{13}{100}$ acres, the leagues being five thousand varas, and each vara thirty-three inches.

Question 8. How did you run the western lines of the survey, or the lines *ma*ked A, B, C, on your map? Describe the land over which they pass.

Answer 8. I began at the point marked A, at the junction of the Arroyo Seco and the Arroyo de los Alamitos, and run a straight line thence to the point marked B on the map, being at the top of the eastern slope of the hill which stands alone near the middle of the valley, said point being supposed to be the Falda de la

Lomita; thence I run magnetic south, crossing the Mine ridge, to one of the head branches of the Alamitos creek, at the point marked C; from A to a point marked T on the map, the line traverses an open valley; at T we commenced the ascent of the Almaden mine ridge, and attained its summit nearly opposite the point in red on said map, marked mouth of quicksilver mine. The elevation at this point is about one thousand feet above the valley. We then passed over rugged broken ground, descending to a point marked C. The ground south of this point has a continuous ascent to near the summit of the sierra.

Question 9. Describe the country through which the Alamitos creek passes, from the point marked C down by the hacienda.

Answer 9. The creek is there bounded on both sides by high ridges until we pass the hacienda, there being no valley land on either side of said creek. Below the hacienda the hills gradually subside in height until we come near Mr. Walkinshaw's house, when we enter the open valley. There is no flat at the hacienda except what has been made by digging down the hill. The lower part of the cañon before the Alamitos enters the main open valley has a width of from five to ten chains. I refer to the part below the small creek which puts in on the right, as shown on said map.

Question 10. Suppose the point B had been taken at the foot of la Lomita which you mention, instead of its present position, and the line had been drawn thence magnetic south, would it include the Almaden mine?

Answer 10. I do not know.

Question 11. Suppose the line had been drawn from point B true south, would it include said mine?

Answer 11. It would not. At the time I made the survey I tried it to see where a true south line would go to, and it would not include said mine.

To this question and answer the counsel for claimants object.

Question 12. How did you run the northern lines of said survey represented on the map by the lines A N M, L K J, J H G?

Answer 12. They were run along the base of the hills dividing the Cañada de los Capitancillos from the valley of the pueblo of San José. They are called the Pueblo hills, and also the Santa Teresa hills. These hills have an average elevation of perhaps three or four hundred feet above the valley at the western boundary of the survey. At the eastern boundary they do not rise more than from fifty to one hundred feet above the valley at that point, the hills preserving about the same altitude, but the valley at the eastern line being considerably higher than at the western line.

At the point marked G there is a puertozuello opening into the plain of Las Llayas. On the east the hills are not precipitous, and he larger portions of them are good grazing land to the summit

on the southern side of them, and they are the same on the northern side.

Question 13. Answer the same question in reference to the eastern boundary line marked G F E, and describe the Laurel hill on that side of the rancho.

Answer 13. The point G is at the head of the upper valley; eastward of that point the land descends as already described. The Laurel hills lie to the southward of this point. The line G T was run from G to T at the western base of the Laurel hills, and the line F E was run crossing the summit of the Laurel hills, and descending and crossing a small stream to the point E. The continuation of this line would immediately ascend a steep sierra.

The Laurel hills are a high spur from the sierra, gradually subsiding in height as they advance northeasterly, until at the point marked F, at their northern termination, their elevation is probably not more than one hundred and fifty feet above the plain. The streams to the west of these hills flow into the Arroyo Seco, and those to the east in an easterly direction.

Question 14. Answer the same question in reference to the southern boundary line, and describe the mountains on this side and those within the limits of the survey?

Answer 14. The greater part of the southern line, that represented by E D, was not run over by the compass and chain, that being the closing line of the survey. It was not run on account of the precipitous character of the ground to be passed over. It crosses a very high ridge which is a projection from the high peak of the sierra known as Umunhum. I have no doubt this line passes over ground at least twelve hundred feet higher than the valley below.

The summit of the Mine mountain is within the limits of the tract surveyed. From that summit the mountain falls in every direction. The mountain crossed by the line E D projects into the valley and sinks into low, irregular hills, which are within the survey.

In the vicinity of the hacienda the mountain is steep, and exhibits many rocky bluffs.

The spurs of the Laurel hills, near the eastern line of the survey, sink into low rolling hills covered with good pasturage. They extend westerly into the survey about a mile and a quarter.

Question 15. What mineral does the Almaden mine contain?

Answer 15. Cinnabar, or the ore of quicksilver.

Question 16. How much land of this survey would be contained in the following boundaries, to wit: the eastern line of said survey, the foot of the Pueblo hills, the western line of the survey, and the foot of the high mountain you have described on the southern side of the survey, and within it.

Answer 16. About one square league of land.

Question 17. Suppose the plain of the survey to be extended equally by drawing lines parallel respectively to the foot of the Pueblo hills and to the foot of the high mountain you have described as being within the survey; on which side would the surface-line be the higher, and which extension would embrace the best land?

Answer 17. It would be much higher on the southern side of the hills and much steeper. The lands of the Pueblo hills are much the best.

Question 18. How much land would be contained in this survey if the northern line had followed the summit instead of the base of the Pueblo hills?

Answer 18. About $2\frac{8\,2}{1\,0\,0}$ leagues, or about twelve thousand two hundred and fifty acres.

Question 19. How much land would be contained between the base of the high mountains on the south within the survey of which you have spoken, the summit of the Pueblo hills, and the eastern and western lines of the survey?

Answer 19. About six thousand three hundred and forty acres, or one $\frac{4\,5}{1\,0\,0}$ league.

Question 20. What is the distance between the eastern and western line of this survey?

Answer 20. Nine thousand four hundred and sixty yards, or two leagues and two hundred and ninety-three yards.

Question 21. What does the red line marked S T on this map represent, and how much is contained within said line, and the eastern, northern, and western lines of this survey?

Answer 21. Said red line is drawn at an average distance of half a league from the northern line of the survey, and the line S T being more than two leagues in length, the quantity of land embraced in the line mentioned in the question exceeds one square league.

Question 22. Suppose a line were drawn along the middle of the Cañada de los Capitancillos, from the eastern to the western boundary of this survey, and on either side thereof, and parallel to and equidistant from the same lines were drawn so as to include between them and the said eastern and western lines of this survey one square league of land; would either the mine or the hacienda be included in the said league, and how much of the Pueblo hills would such line take in?

Answer 22. It would not include either the mine or the hacienda. The line on that side would not reach the summit of the Pueblo hills.

Question 23. If on either side of said middle line of said cañada, lines were drawn parallel to and equidistant from the same, so as to include between them and the eastern and western lines of said survey two square leagues of land, would either the mine or haci-

enda be included in said two leagues, and how much of the Pueblo hills would the line on their side embrace?

Answer 23. It would not include either the mine or the hacienda. The northern line would pass about one hundred and thirty yards north of or beyond the summit of the Pueblo hills.

Question 24. Please describe that part of the Cañada de los Capitancillos between the eastern and western boundaries of said survey, its length and average width.

Answer 24. The length of said cañada is about two leagues, and its average width from its western line to Berreyesa's house is about half a league. To the eastward of Berreyesa's it does not extend one-quarter of a league.

Question 25. Please look at map constituting a part of the traced copy of the espediente heretofore filed in this case, and annexed to the deposition of José Fernandez, and state whether you ever saw it before, and on what occasion?

Answer 25. I never saw this before, but I saw a diseño very similar to it, in September, 1850, at the time I made this survey; I think this is probably a traced copy of the one I had.

Question 26. Is there any such valley between what you have described as the Mine ridge and the higher mountains to the south, as that which is represented on this diseño, where the arroyo de los Alamitos flows between the hills marked "Lomas Bajas," and what is marked "Cierra Azul?"

Answer 26. The ground descends from the Mine ridge to the Alamitos going south, and again ascends, but there is no level valley between the Mine ridge and the summit of the sierra. The Alamitos is a very rapid mountain stream from the point marked C, flowing through a cañon the greater part of the way to the hacienda. The hacienda I speak of is marked on the map La Hacienda.

Question 27. Had you any other papers with you when you made the said survey besides the diseño to which you have referred; if yea, who gave you those papers and the diseño; by whom was the survey directed to be made, and did your survey correspond with the diseño, the other papers you had in your possession, and the directions given you?

Answer 27. I had, besides the diseño, with me when I made the survey, a Mexican grant of the rancho of Cañada de los Capitancillos; I think I received the papers from Dr. Hepburn. The survey was directed to be made by the district court, in Santa Clara county. The survey was satisfactory to the parties who procured it to be made, and is a correct survey of the land intended to be represented by the diseño, and it corresponds with the description in the grant. The title in my possession called for two leagues, a little more or less. The land surveyed contained two leagues and $\frac{36}{100}$.

Claimant's counsel objects to this answer to the 27th question being read in evidence as incompetent.

*Cross-examined by Claimant's Counsel.*

Question 1. Does not the land commencing at the summit of "Mine hill," descend until it reaches the arroyo de los Alamitos, and after crossing that creek does not the land begin to rise and continue so to do until you reach the summit of the sierra?

Answer 1. I answer affirmatively to the whole of the question.

Question 2. Pursuing the said arroyo from the point marked "oak" on the western line of this survey until you come to the fork below the hacienda, does the land on the west of said creek ascend till you reach the summit of "Mine mountain," and on the east of said creek does the land ascend to the top of the sierra?

Answer 2. I answer the whole question affirmatively.

Question 3. Commencing at the said fork below the hacienda, please to indicate on this map where the line would run drawn at the base of the high hills on the one side, and the low hills on the other side, until you reach the first spur of the Laurel hills.

Answer 3. The line called for would follow the right or eastern fork of the Alamitos as far as the short bend marked "X," now first marked by me on the map; from X eastward, on account of the winding direction and uncertain characteristics of this line, its position would be a point on which would arise a great variety of opinions. The line would not differ materially from the position indicated by X Y Z, eastwardly from "X." The point Z is where the sierra may be said to begin, and is on the summit of the Laurel hills. The point where the name "hill" should cease, and that of mountain begin, is somewhat uncertain.

Question 4. What quantity of land would be contained in this survey, considering its southern line the one which we have just described from the "oak" round to "Z," and the eastern boundary from Z to F?

Answer 4. The quantity of land in the survey north of said line, from the oak round to Z by the creeks, would be about 1⅔ leagues.

Question 5. How far is it from the point "F" on the summit of Laurel hill to the farthest spur westwardly of the Laurel hills?

Answer 5. Measuring from F southwestwardly, at ¼ of a mile we would strike the valley at the foot of the Laurel hills; the line continued would pass near the head of the arroyo Seco, and strike the most westwardly spur at the distance of about 1½ miles from F. The valley of the arroyo Seco, or the Cañada, extends to "G;" from "G" eastwardly, the ground descends to the main Santa Clara valley; southwestwardly from G are the Laurel hills. The head of the Cañada sweeps round from G, around the head of the arroyo Seco and its tributaries.

Question 6. Commencing at G, and drawing a line along the foot of the Laurel hills until it reaches the line from the "oak" to "Z," taking the one as your southern, and the other as your eastern boundary, what quantity of land would be contained in your survey?

Answer 6. It would be about $1\frac{45}{100}$ leagues.

Question 7. Starting at H on your map, running thence to the oak, and thence down the Alamitos to the fork, and thence on the line "X Y Z," at what point of the last mentioned line would you leave it at right-angles running northwardly to the Pueblo hills, as indicated on your map, so as to embrace one league of land?

Answer 7. Such a line would depart from "X Y Z," between X and Y—that is as near as I would like to state.

Question 8. What is the scale of your map?

Answer 8. It is 30 chains, or 660 yards, or 720 varas to the inch.

SAN FRANCISCO, *December* 23, 1854.

The deposition of the same witness in the foregoing is resumed in the re-examination on the part of the law agent.

Question 9. Look at the map in the original papers constituting the expediente in this claim, on file in the office of the U. S. surveyor general for the State of California, and now brought before this commissioner by Thomas E. Evershed, and referred to in his deposition, taken in this case December 18, 1854, and herein filed, and compare the same with the traced copy thereof in the document marked "Espediente C. P. L.," as an exhibit to this deposition, and heretofore filed in this case, and say whether the pencil-marks on the eastern side of the creek, represented by the original, between the eastern boundary of the Pueblo hills and the spur from the Sierra Azul, at the word Lomeria, or a little below that word, are to be found on the traced copy before referred to, and also what natural objects the said pencil-marks represented, and if the same are represented on the map of your survey; and if yea, where?

Answer 9. The pencil-marks at the position designated are on the map received from the surveyor general's office, but not on the traced copy exhibited. They are designed to represent the Laurel hills, and are represented on the map of my survey by the hills so marked "Laurel Hills."

Question 10. State what natural objects are represented by the shaded surface which is enclosed by black ink lines in the traced copy of the diseño marked "Exhibit 2" to this deposition, which shaded surface lies in a separate enclosure of ink lines, to the east of the Arroyo de los Alamitos, according to the needle of the compass, as laid down on said map; and state what that part of said

ink line which is drawn from the base of the sierra, at nearly the easternmost extremity of the part represented on this map, in a northerly direction, to near the word "Lomeria," is intended to represent.

Answer 10. The shaded surface referred to represents a high spur projecting from the sierra northwardly towards the cañada; the line referred to on the east side represents the eastern base of said spur.

Question 11. State your reason for saying said line represents the eastern base of said spur.

Answer 11. I judge so, from the map itself, and its general conformity to the ground intended to be represented, particularly in the manner in which the Laurel hills are connected with the high spur, as already explained.

Question 12. State what natural objects are represented on the shaded surface surrounded by ink lines, north of and nearly touching the shaded surface mentioned in the last question, and under which are the words "Lomas Bajas," and how the said natural objects are represented in the map of your survey.

Answer 12. The said shaded surface represents the low hills north of the spur described in the last answer; and these low hills are represented on the map of my survey by the shaded surface north of the line X Y, and of the stream running from X to the Arroyo de los Alamitos.

Question 13. State what natural objects are represented by the shaded surface surrounded by ink lines, extending quite across the southern extremity of said traced copy, under which is written "Sierra Azul;" and how the said objects are represented on the map of your survey; and what the straight line on the lower or northern line of said shaded surface is intended to represent; and whether the said line is represented on the map of your survey.

Answer 13. Said shaded surface represents the Sierra Azul, the highest peak being the point known as "Umunhum," an Indian name, and which is one of the highest peaks of the said Sierra Azul. The straight line referred to, on the north side of the said shaded surface, represents the base of the said Sierra Azul. That line was intended to be represented on my map by the line marked "C D E." The words La Sierra on my map, to the south of said line C D E, indicate the position of the main mountain, as far southwardly as the map was drawn; but the great body of said sierra is not represented, because it would extend entirely beyond the limits of the paper, and it was not supposed by me that any information would be needed any further in a southern direction.

Question 14. State what the point E on your map represents,

and how you can describe it so as to designate its position on said traced copy, Exhibit 2.

Answer 14. Said point E represents the southern base of the Laurel hills and the foot of the sierra, and corresponds with the southeast corner of said traced copy, according to the needle as laid down.

Question 15. Describe the location of Berreyesa's houses on the map of your survey.

Answer 15. They are situated in the northern side of the cañada, near the base of the Pueblo hills, and in the positions indicated on the map, and marked "Berreyesa" in two places. There is a third house belonging to the Berreyesas, between the two so marked.

*Cross-examined again by Judge Thornton, for Claimant.*

Question 1. When was the map "Exhibit No. 1" made, and at whose instance was it made or caused to be made?

Answer 1. It was made last week, at the request of Captain Halleck and Mr. Peachy.

Question 2. In your map, does the arroyo Seco rise in hills; if yea, in what hills?

Answer 2. It is properly represented on the map. It makes its first appearance in rather flat land, a little to the west of the base of the Laurel hills. It has very little water, and a very small channel at its head in the dry season; considerable water east of Berreyesa's house, and dry in summer near its junction with the Alamitos.

Question 2. How many houses are there in San Vicente rancho occupied by the Berreyesas?

Answer 3. I think there are four occupied by members of the family—the three already described and one adobe house, erected within the last year on the Alamitos below Walkinshaw's house, which last mentioned house of Walkinshaw's is noted on my map.

WM. J. LEWIS.

Subscribed and sworn to before me, on this 23d day of December, A. D. 1854.

PETER LOTT,
*Comm'r, &c.*

Filed in office Dec. 26, 1854.
(Signed) GEO. FISHER, *Sec'y.*

*Deposition of Norman S. Bestor.*

UNITED STATES OF AMERICA,
*State of California, ss.*

SAN FRANCISCO, *March* 5, 1855.

This day came before Peter Lott, commissioner for taking testi-

mony to be used before the board of U. S. land commission in said State, Norman S. Bestor, a witness on behalf of the United States, in case No. 503 on the docket of said board, wherein Maria Z. B. Berreyesa et als. are claimants, and said witness being sworn, deposed as follows:

Judge Thornton appears for claimant.

*Questions by U. S. Law Agent.*

Question 1. What is your name, age, and residence?

Answer. 1. My name is Norman S. Bestor; my age 34 years; my residence in Santa Clara, Cal'a.

Question 2. Please to state what is your occupation.

Answer 2. I am employed in the superintendence of the mining operation of extracting the ore from the quicksilver mines at New Almaden, in Santa Clara county.

Question 3. Have you ever seen any marked trees or piles of stone near said mine?

Answer 3. I have.

Question 4. What appears to be the age of the marks on these trees, and how long have the piles of stones been there?

Answer. 4. I have only seen one pile of stones that I am certain has been placed there since the year 1853. I passed by there then a number of times; it was not there then; about a month ago I went to the spot where it is, and saw it; alongside of this pile of stones stands a large oak tree, marked with the letter "B" cut into the bark. I would think that mark, from its appearance, had been made within a year; it does not look like an older mark. I do not think it is a year old. This tree I should judge to be about half a mile of said mine. On what appears to be a line from said old mouth of the mine to this tree there are two blazed trees which I have seen, and the blazes appear to be about as old as the mark before mentioned.

Question 5. Are you acquainted with an arroyo which takes its rise near the arroyo de los Alamitos, and runs in a westerly direction along the base of the hills in which the Almaden and Guadalupe mines are situated? If yea, state where the said arroyo empties.

Answer 5. I am acquainted with such an arroyo; it rises about a mile and a half south of said Almaden mine. I never measured the distance, and can only give an opinion of it. It rises between the ridge of hills in which said mines are situated, and the high mountains of the Coast range, running in its general course at its source about west, as near as I can judge, and bending round towards the northward until it joins with the Alamitos at a point about half way between Almaden and San José, generally known as the half-way point, and about six miles from either place; at that point the junction of these two streams forms the Guadalupe.

This stream I am describing is an arroyo Seco or dry creek, the greater part of the summer months, but it is not the arroyo Seco which joins the Alamitos and forms the dividing line between the claims of Justo Larios and the Berreyesas.

This last mentioned arroyo or dividing line joins the Almamitos some 3½ or 4 miles above the one I just described.

The arroyo Alamitos is the creek which runs through the hacienda of New Almaden. It bears this name of Alamitos till it is joined at said half-way point, and below that it is called "Guadalupe."

Question 6. Look at the document now shown you, marked A. P. L., as an exhibit to this deposition, and read the description of the land therein granted to Justo Larios, and point out on the diseño in said document what you understand to be the arroyo Seco on said diseño, which is called for in said written description of said grant.

Answer 6. The arroyo Seco called for in this description I understand to be this which is marked on said diseño "Arroyo Seco," which is represented as joining the "Arroyo de los Capitancillos."

The arroyo marked here as Arroyo de los Capitancillos I understand to be the Arroyo de los Alamitos, of which I have been before speaking.

The topography of this map seems to make it the same creek.

Question 7. On which side of the range of hills marked on this map "Sierra del Enciño" does the arroyo Seco run before it debouches and runs into the plain?

Answer 7. On the south side of the range.

Question 8. Which side of the diseño represents the north side of the land it purports to cover?

Answer 8. The side near which are written the words "Lomas Bajas."

*Cross-examined by Judge Thornton for Claimant.*

Question 1. How far is it from the mouth of the Almaden mine on the top of the Mine mountain south to the base of the sierra or Coast range?

Answer 1. About a mile and a half, as near as I can tell, but I have never measured it or seen it measured.

NORMAN S. BESTOR.

Subscribed and sworn to before me on this 5th day of March, A. D. 1855.

PETER LOTT,
*Comm'r.*

Filed in office March 6, 1855.
(Signed) GEO. FISHER, *Sec'y.*

4172

*Affidavit of F. P. Tracy.*

Before the commissioners of the United States to ascertain and settle the private land claims in California.

In the matter of the petition of Maria Z. B. Berreyesa for the Rancho of San Vicente.—No. 503.

STATE OF CALIFORNIA,
*County of San Francisco, ss.*

F. P. Tracey, attorney at law, being duly sworn, deposes and says, that he is the only attorney of record in the above entitled cause, and is alone authorized to take any legal steps before this board in relation thereto, and that he never placed or authorized the said cause upon the trial docket, and that the same stands there by mistake; that deponent never knew until day before yesterday, after the motion hour had passed, that said cause stood upon the calendar for trial, and that said cause is not ready for hearing, and that great injury will result to the claimants if this cause shall not be stricken from the trial docket.

F. P. TRACY.

Subscribed and sworn to this 12th of August, 1853, before me.
THOMPSON CAMPBELL, *Comm'r.*

Filed in office August 12, 1853.
(Signed) GEO. FISHER, *Sec'y.*

*Motion.*

MARIA Z. B. BERREYESA
vs.
THE UNITED STATES.

Motion is made to amend the caption of the deposition of Justo Larios filed in this case, so as to make it conform to the style of the case in which it is taken, and that the secretary be directed to amend accordingly the record of said deposition.

Filed in office Dec. 19, 1854.
(Signed) GEO. FISHER, *Sec'y.*

*Diseno of Berreyesa.*

[Here follows traced copy of the diseño of José Reyes Berreyesa; see original, page 63.]

*Exhibit No. 1 A. F. to the Deposition of Wm. J. Lewis.*

[Here follows Exhibit No. 1 A. F. annexed to the deposition of Wm. J. Lewis, being map of his survey of "Rancho de los Capitancillos;" see original, page 63.]

Filed in office Dec. 26, 1854.

GEO. FISHER, *Sec'y.*

ridge, is part of the mountain range in which is Mount Umunhum.

Answer 9. In referring to a note on the map it will be seen that each horizontal course in the topography represents a vertical height of fifty feet; the character of the ground is better indicated by the map than it can be by verbal description. I will mention a few of the characteristics: an unbroken ridge extends from Mount Umunhum to the Mine hill, forming a water ledge, the waters on one side running with the arroyo de los Alamitos, and on the other side with the arroyo Seco on the western boundary of this rancho. At the point where the line of my survey crossed it, it is more than a thousand feet above the general level up the valley on the northern side of the Sierra de Encinos.

There is another point in this ridge, about half a mile southwest of the mouth of the mine, which is nearly of the same elevation. The two last named points are the lowest points on the ridge between the peak at Mine hill and Mount Umunhum.

On both sides of this ridge the descent is generally very abrupt towards the cañons. The unfinished part of the map is a mass of mountains intersected by cañons, and were not put on the map because it was difficult to ascertain their character without going amongst them, and they lie on side the survey. They are very high, being branches of Mount Umunhum, which is one of the highest peaks of the Santa Cruz mountains. There is no doubt that the Sierra de Encinos, or Mine ridge, is a part of the cluster of mountains of which Mount Umunhum is the highest point.

Along the arroyo Seco, from the northwest end of the Sierra de Encinos to its head, there is no level ground on either side of the stream, and on the arroyo de los Alamitos there is no level land southwest of or above the point marked "Hacienda" on the map. Both the arroyo Seco and the arroyo de los Alamitos, south of or behind the Sierra de Encinos, are bounded on both sides by mountains rising immediately from the bed of the streams; the heads in the high spurs of Umunhum have a rapid descent in the direction in which they run.

Question 10. In answer to your 6th interrogatory you have not stated the data upon which your survey is based. Please state it more fully.

Answer 10. It was made under my immediate inspection from the field-notes of the survey. I am satisfied that the map is correct, as all the points and angles of the boundaries are laid down in my presence, and the distances measured as I read them. The closing of the survey and the calculation also prove that there can be no material error in the protraction of the map, or in the survey itself.

474

*Cross-examined by H. J. Thornton, Attorney for Claimants.*

Question 1. You have stated in your former examination that as surveyor you had run off many old Mexican grants. Please state when in such grants you have met with a call for the point of the compass south, what have you understood that word south to mean in reference to the magnetic meridian and its variation?

Objected to by law agent as irrelevant.

Answer 1. I never met with a call for the point of the compass south in surveying any old Spanish land titles in California, unless the line between the ranchos of Justo Larios and Berreyesa can be so construed.

Question 2. If that be construed to be a line south, what would you understand by it?

Answer 2. The Californians were not familiar with the use of the compass, and they would understand south to be true south, or the position of the sun at noon; not knowing the compass, of course they would know nothing of the variation of the compass. But as far as I have observed, the Californians had generally very inaccurate ideas of the points of the compass, as we will frequently see in their diseños; the north point of the compass being represented from one to fifty degrees out of the true direction.

Question 3. Please mark on your map where a straight line drawn from the junction of the Alamitos and Seco creeks would strike the sierra beyond the Mine hill, at the nearest point of the sierra from said junction.

Answer 3. The line drawn in pencil on the map is represented by the letter B.

Question 4. How is the line marked upon your map which runs due magnetic south from the junction of the Alamitos and the arroyo Seco to the Sierra de Umunhum?

Answer 4. It is marked in lead pencil, and designated by the letter A.

*Re-examined by U. S. Law Agent.*

Question 1. In your answer to the 4th question you state that your first survey was made, taking for your guide the map which accompanies the espediente, beginning at the junction of the arroyo Seco with the arroyo de los Alamitos, to what espediente did you allude?

This question objected to by claimant's counsel.

Answer 1. I wish to amend that answer by saying that I took the grant and map in Justo Larios' claim, which is also filed in this, marked A. P. L., exhibit to deposition of Norman S. Bestor, March 5, 1855.

Question 2. You proceeded to state, that following the Arroyo de los Alamitos to its junction with the Arroyo Seco, which sepa-

rates this rancho from the rancho of San Juan Bautista—please to explain what you mean by the Arroyo de los Alamitos, as used in that answer.

Objected to by counsel for claimant.

Answer 2. It is an error. I intended to say the Arroyo de los Capitancillos, and not the Arroyo de los Alamitos.

Question 3. Please to identify upon the map of your survey the places called in the espediente relating to the title of Justo Larios before mentioned, the Arroyo de los Capitancillos, the Arroyo Seco, the Sierra de Enciños, and the Lomas Bajas.

Answer 3. The Arroyo de los Capitancillos and the Arroyo Seco are marked with those names on the map, and the Lomas Bajas in the diseño are marked Pueblo Hills on the map.

Question 4. Please to describe the Pueblo hills as they lie on the north side of this rancho, and state whether they connect with the hills of the same name which you have described in your deposition heretofore taken in this case, which lie on the northern side of the land claimed in this case.

Objected to by claimant's counsel as an examination in chief.

Answer 4. The Pueblo hills lie to the north of the Arroyo de los Capitancillos, and are a continuation of the Pueblo hills referred to in my former testimony in this case.

Question 5. Describe the Pueblo hills.

Answer 5. They have a height from two to five hundred feet, in some points coming down close to the Arroyo de los Capitancillos, and at others leaving a narrow stretch of level land between the arroyo and the base of the hills. They extend from the Laurel hills northwesterly to near the mouth of the Capitancillos. At the northwest corner of Justo Larios' rancho, near the summits, serpentine rocks frequently project from the surface, and the land is worthless. Towards the southeast the hills assume more of a rolling character, and have good grazing land extending nearly to their summits.

WM. J. LEWIS.

Sworn to and subscribed before the commissioners sitting as a board, this 20th March, A. D. 1855.

Attest:

GEO. FISHER, *Sec'y.*

Filed in office March 21, 1855.

GEO. FISHER, *Sec'y.*

*Exhibit A. T. H.*

[Here follows Exhibit A. T. H. to the deposition of Wm. J. Lewis, being map of the survey of Rancho de los Capitancillos. See original, page 74.]

*Espediente C, annexed to Deposition of Jose Fernandez, Dec.* 28, 1853.

Espediente.

Promovido por el ciudadano José Reyes Berreyesa en solicitud del parage numbrado la Cañada de los Capitancillos. 293.

P. L.

*Exhibit to Deposition of William J. Lewis, Dec.* 23, 1854.

Espediente.

Promovido por el ciudadano José Reyes Berreyesa, en solicitud del parage numbrado Cañada de los Capitancillos.

Exmo.: El ciud'o José Reyes Berreyesa, vecino del pueblo de San José Guadalupe; ante V. E. como mas haya lugar, y el derecho le permite, le presenta se presenta y dite: q'e y ó hace solicitada tiempo de mas de ocho años, que se haya rusticada en el parage nombrado S. Vicente, Cañada de los Capitancillos, cuyo parage le fué concertido oficialmente por el finado S'r G'ral D. José Figueroa en el que hó subcistido, hasta la f'ha, con su muy numerosa familia, y aunque a pesar de haber hecho varioisicestancias en solicitud de obtener el titulo correspond'te p'a asegurar su legitima propiedad, no hó partido h'to ó hora lograr esta satisfacion; cuya demora a duedo luejar a que su colindante Justo Larios haya tumbado su casa y plantadola, exclusivamente que los dividia que heran como cosa de dos leguas poco mas ó menos con deten'to del agua que le quito al ganada y lo augento p'r esa parte; y aun sus embargo, de que no se debe considerar este con tanto derecho como se lo hera sugenido, varios seolactores enemigos del orden solicit, y como heros que y é putendia se partiera la diferencia del terreno le acomsejaron puciera su cosa y la dicho mediacion para al este modo entorpecer del todo misientenciones. Por que si hace tres ó cuatro años que se haya, subsistiendo p'r Leandro Galindo esta no heyo mas al venderle la casa y no el terreno, p'r q'e no su hayaba con derecho p'r ello; y sies embargo el anda p'r vender al parage, como eja lo la a venjiar p'r donde se infiere de q'e no le nececita é no tiene mayor interes en el. Y a la ves s'r ex'mo que el expresado un colindante, a usado de arbitraviedad (como el mismo me lodiga) de poner su casa facultivm'te en el intermedio, este sea el lindero que nos divida, si V. E. lo tiene p'r q'e lo tiene a donde estenderse que es para fuera de la cañada, q'e a nudie pertenese: y yo no tengo absolutamente a donde alargurme. Mi solicitud a sido siempre de dos sitios, y ahora la hayo lo mismo que es decir desde la casa de Justo Lario hasta el matedero, con todas las lomas que pertenecen a la dicha cañada. Los derechos que en esta punta me pueden furorecer son ubaños y tomese mas que servi ó la patria de la carrera militar. Desde soldado, h'to sarg'to en que use de mi licencia absoluta, seis nota ninguna como consta p'r ella. Y despues de

haber sacrifiendo, toda mi vida sali al f'us, sies pagum'to ninguno perdido mis areres y solam'te con vure hijos de familia que so hayan actualm'te en un compania y a un sombra y de estos casados cuatro de ellos y tengo el honor de acompañon es V. E. el diseño respectivo. Por tanto, A. V. E. rendidam'te suplico se digne teneren concideracion todo cuanto dejo espuesto y ver propicio esto mi suplicatorio de que lo vivire reconocido.

Rancho de S. Vicente, 2 de Junio de 1842.

JOSÉ R. BERREYESA.

En virtud de la orden que V. E. se sirbio ordenar p'a que se presentaran en este juzgado de mi cargo los CC. José Reyes Berreyesa y Justo Larios presentando los documentos que acreditan los solicitudus, de la propiedad sobre el terreno llamado Cañada de Capitancillos; al ejecto el primero puento el espediente que antecede, esponiendo tener olos representaciones mas, en la prefectura del distrito, el segundo fue llamado y no se presenta mas se al querir pr. Don Dolores Pacheco antes mis que Larios habia presentado un espediente en el año lio que se halla en la prefectura, se ha d'ho antes que Larios no se habia presentados y al tiempo de escribir las cullena lineas se presente y otra lomeria dehon dado por D'n Dolores Pacheco, El Sargento Reyes Berreyesa, dijana informe en los superiories dispociones que V. E. tubiena á bien dispueser.

ANTONIO BERREYESA.

Pueblo de San José, Junio 11, de 1843.

MONTEREY, *Junio de* 13, 1842.

Informe la prefectura con presencia de las documentos ó solicitudes aque se refiere el informe del juez de paz del pueblo de San José.

ALVARADO.

Exmo. S. Gobernador de este Departmento:

Con el mayor ciudado se ha solicitado en el arduvo de esta oficina el espediente de que hace mencion en su informe el S. juez de paz de pay de San José peteneciento a D. Justo Larios y no existe; aunque si el que promobio al C. José R. Berreyesa y en esta de estos documentos del informe del citado juez y de la honraded, numerosa familia y buenos servicios de S. Berreyesa, la prefectura de un cargo opina que puede concederse le el terreno que pretende y lanta con el adjunto diseño serviendole de limites la casa de Don Justo Larios havios mas sus embargo V. E. resolvera lo que es tiene mas en justicia.

Protesto à V. E. las seguridades de en respeto.

JOSÉ R. ESTRADA.

Monterey, Junio 14, de 1842.

MONTEREY, *Junio* 15, *de* 1842.

Corrase traslado a la parte de Justo Larios para que alque audito

crea conveniente a su derechos justificando al mismo tiempo conforme á lo ley los merinos y servicios echos ó la patria.

ALVARADO.

MONTEREY, *Ag'to* 1o, *de* 1842.

Habiendo convenido la parte de Larios y de Bereyesa estar conformes con los linderos demarcados en el diseño adjusto y en virtud de estar suspendo y estiendivo en el terreno ester p'r algun tiempo espedure en el titulo correspondiente.

ALVARADO.

MONTEREY, 20 *de Agosto de* 1842.

Vesta la peticion con queda principio este espediento las informes que preseden con todo lo demas que se terro presente y ver convino declaro en conformidad á las leyes respectivos dueno en propiedad al ciudadano José R. Berreyesa de una parte del parage nombrado Cañada de los Capitancillos, colindante al norte con las lomerias bajas immediatos el plan del pueblo de San José, al sur con la sierra, al oriente con las lomerias del laurel, y al pomiente con el rancho del ciudadano Justo Larios, es cual tiene por lindero el angulo que forma el arroyo Seco y el de los Alamitos, la falda de la loma cituada en el sentro de la cañada y la tierra, librese el correspondiente despacho, tomese razon en el libro respectivo y deriguse este espediente á la ex'mo junta departmental para su aprobacion, el. ex. Sr. Don Juan B. Alvarado, gobernador constitucional de las Californias asi lo provego, mando y firmo.

EX'MO S'OR: Los litigantes CC. José Berreyesa y Justo Larios hara convenido ante un en que los linderos de ambos al rumbo del E. segun demuestra el diseño de Berreyesa sea tiniendo una veta desde al angulo que forma el arroyo de los Alamitos con el seco rumbo al S. la falda de la loma situada en el centro de la cañada hacia el E. y hasta llegar a la sierra; de manera que segun el espresado diseño que parese mas enacto, la repetida linea biene a ser una parallela que yo hi demarcudo con puntos para el conicimt'o de V. E.

Con lo que hui quedando á quientados y conformes.

Monterey, 16 de Junio, de 1842.

JOSÉ Z. FERNANDEZ.

[*Here follows map or plan.—See original, page* 80.]

Juan B. Alvarado, Gobernador Constitucional del Departamento de las Californias.

Por cuanto el ciudadano José Reyes Berreyesa, ha pretendido para la beneficio personal y el de su familia, una parte del parage nom-

brado Cañada de los Capitancillos; colindante al norte con las lomerias bajas immediatos al plan del pueblo de San José, al sur con la sierra, al oriente con las lomerias del laurel y al poniente con el rancho del ciudadano Justo Larios, el cual tiene por linderos el angulo que forma el arroyo Seco y el de los Alamitos rumbo al sur la falda de la loma cituada en el centro de la cañada con al este hasta llegar á la sierra; practicadas punamiente las diligencias y averiguaciones consernientes segun lo dispuesto por leyes y reglam'tos usando de las facultados que un con eregenidos á nombre de la nacion Mejicana, he venido en concederle el terreno mencionado, declarandole la propiedad de el por las presentes letras sujeto a la aprobacion de la ex'mo junta departamental, y ó las condiciones siguientes:

1o. Podra sercarlo sus perjudicar las conciros caminos, y servitudes lo disfrutara libre y esclum'te, destinandolo al uso ó cultivo que mas le acomode, pero dentro de un año fabricara casa, y estara habitado.

2o. Solicitara del juez respectivo que le de posecion juridica, en virtud de este despacho por el cual se demarcaran los linderos en cuyos limites pondra á mas de las moyoneras algunos arboles frutales ó silvestres de alguna utilidad.

3o. El terreno que sa hace mencion es de un citio de ganado mayor, poco mas ó menos, segun esplica el diseño que corre en el espediente respectivo, el juez que diere la posecion, lo haro medir conforme ó ordenanza, quedando el sobrante que resulte á la nacion para los usos que mas le convengan.

4o. Si contraveniere a estas condiciones perdera su derecho al terreno y sera denunciable por otro.

En consecuencia mando que teniendose por firme y valedero este titulo se tome rezon de el en el libro aque corresponde y se entregue al interesado para su resguardo y demas fines.

Dado en Monterey, a veinte de Agosto de mil ochocientos cuarente y dos.

OFFICE OF THE SURVEYOR GENERAL OF THE UNITED STATES FOR CAL'A.

I, Samuel D. King, surveyor general of the United States for the State of California, and as such now having in my charge and custody a portion of the archives of the former Spanish and Mexican territory or department of Upper California, do hereby certify, that the thirteen preceding and hereunto annexed pages of tracing paper numbered from one to thirteen inclusive, and each of which is verified by my initials (S. D. K.) exhibit true and accurate copies of certain documents now on file, and forming part of the said archives in my office.

In testimony whereof I have hereunto signed my name officially and affixed my private seal, (not having a seal of office) at the

city of San Francisco, Cal., this 25th day of November, A. D. 1851.

SAMUEL D. KING,
*Surveyor G'l Cal.*

Filed in office Dec. 30, 1852.

GEO. FISHER, *Sec'y.*

*Translation of Espediente.*

Translation of Espediente of proceedings had by the Citizen José R. Berreyesa, soliciting the place called Cañada de los Capitancillos.

MOST EXCELLENT SIR: The citizen José R. Berreyesa, residing near the pueblo of San José Guadalupe, before your excellency in due form of law appears, and says, that it is now more than eight years since he settled on the place called S. Vicente Cañada de los Capitancillos, which place was officially granted to him by General Sr. D. José Figueroa, deceased, and where he has resided to this day with his very numerous family; and although he has made several applications to obtain the corresponding title in order to secure his property, to this day he has not had the satisfaction to receive it; which delay has been caused by Justo Larios, the adjoining proprietor, who has thrown down his house and erected another on the dividing line between them, which would give him about two leagues, a little more or less, depriving me of the water for my cattle, which he has thus driven off; and yet he is not entitled to so much consideration, nor has he such rights as has been suggested to you by several disturbers and enemies of public order, who as soon as they learned that I was soliciting for the settlement of the difficulty with respect to the land to be divided, advised him to put his house on said line in order that to interrupt me in my pretensions.

Notwithstanding it is now three or four years that he has been substituted by Leandro Galindo, this person only sold the house and not the land, to which he had no right, and yet he is trying to sell the place, from which it may be inferred that he does not need the place, nor has he any interest in it.

And since my said adjoining neighbor, most excellent sir, has arbitrarily placed his house on the said line, let that be the boundary, if it please your excellency, for he has room for extension, which is out of the cañada, and which does not belong to any person, and I have absolutely no room whereto to extend my land.

My petition has always been for two sitios, and for these it is now made—that is to say, from the house of Justo Larios to the Matadera, with all the hills that belong to said cañada. My merits to your consideration for this are twenty-six years and four months which I served my country in the military career from a

soldier to the rank of sergeant, and I used my license without any benefit to myself, and after having sacrificed all my life in the service, I left it without receiving any pay, and after having lost all my property, I now find myself with eleven children, who are all in my company and under my protection, of whom four are married. I have the honor to accompany with this petition the respective plat, (diseño.)

Therefore I respectfully ask of your excellency that you may take into consideration my petition, and receive it favorably.

Rancho de S. Vicente, June 2d, 1842.

(Signed) JOSÉ R. BERREYESA.

MONTEREY, *June* 6, 1842.

Let the justice of the peace of the pueblo of S'n José give his report.

(Signed) ALVARADO.

By virtue of the order directed to me by your excellency to require the citizens José Reyes Berreyesa and Justo Larios to appear before me with their documents in relation to the land called Cañada de los Capitancillos, the former presented the foregoing espediente, and represented that he had two other petitions in the office of the prefect of the district; the latter was called, but did not appear, but nevertheless I was informed, through Don Dolores Pacheco, my predecessor, that Larios presented an espediente the year '40, which may be found in said office of the prefect: herein it has been said that Larios did not appear, but about the time when I was about writing these last lines he appeared, and gave the same reasons given by Don Dolores Pacheco.

The Sergeant Reyes Berreyesa said that he would be satisfied with your excellency's superior determination.

Pueblo de San José, June 11, 1842.

(Signed) ANTONIO BUELNA.

MONTEREY, *June* 13, 1842.

Let a report be given by the prefect in view of the documents or petitions referred to by the justice of the peace of the pueblo de San José.

(Signed) ALVARADO.

Most Excellent Governor of this Department:

The espediente referred to in the report of the justice of the peace of San José, belonging to D. Justo Larios, has been most diligently searched for in the archives of this office, but does not exist here; but that of Don José R. Berreyesa does exist, and in view of these documents and the report of the said justice, and having under consideration the honest behavior and the numerous family and the good services of Sr. Berreyesa, the prefect is of

opinion that the land which he asks ought to be granted to him, which (land) appears by the annexed map, the house of Don Justo Larios serving as a boundary; but nevertheless your excellency can determine whatever you may consider most in accordance with justice.

With high respect, yours,

(Signed) JOSÉ R. ESTRADA.

Monterey, June 14, 1842.

MONTEREY, *June* 15, 1842.

Let a copy be served on the party, Justo Larios, in order that he may answer whatever he may think proper, and that at the same time let him prove, according to law, his merits and services rendered to the country.

(Signed) ALVARADO.

MONTEREY, *August* 1, 1842.

The parties, Larios and Berreyesa, having agreed that they are satisfied with the boundaries marked in the annexed map, and whereas the latter has been occupying and cultivating the land for some time, let the corresponding title be issued to him.

(Signed) ALVARADO.

MONTEREY, *August* 20, 1842.

Having seen the petition with which this espediente begins, and the foregoing reports, and whatever was necessary to be seen, in conformity with the respective laws, I declare the citizen José R. Berreyesa owner in fee of that portion of the place called Cañada de los Capitancillos, bounded on the north with the low range of hills adjoining the valley of the pueblo of San José, on the south by the sierra, on the east with the range of hills "del Laurel," and on the west with the rancho of the citizen Justo Larios, which has for its boundary the angle formed by the arroyos Seco and the Alamitos, the slope of the hill situated in the centre of the cañada to the sierra.

Let the corresponding despatch be given, and let note be taken of it in the corresponding book, and let this espediente be remitted to the most excellent departmental junta for its approval.

Sr. Don Juan B. Alvarado, constitutional governor of the Californias, thus provided it, ordered, and signed.

Most Excellent Sir:

The litigants, citizens, José Berreyesa and Justo Larios, have, in my presence, agreed that their boundary towards the east, as exhibited in the map of Berreyesa, be an erect line drawn from the angle formed from the junction of the Alamitos with the Seco, running south towards (or near to) the eastern slope of the hill situate

in the centre of the cañada to the sierra; so that, according to said map, which seems to be most exact, the said line is a parallel, which I have marked with dots for your excellency's information.

With this they have been quieted, and have remained satisfied.

(Signed) JOSÉ Z. FERNANDEZ.

Juan B. Alvarado, Constitutional Governor of the Department of the Californias.

Whereas the citizen José Reyes Berreyesa has solicited for his personal benefit and that of his family a portion of the place called Cañada de los Capitancillos, bounded on the north with the low range of hills adjoining the valley of the pueblo of San José, on the south with the sierra, on the east with the range of hills del Laurel, and on the west with the rancho of the citizen Justo Larios, which has for this boundary line the angle formed by the junction of the arroyo Seco and the Alamitos; thence running south by the eastern slope of the hill situated in the centre of the cañada, until the line meets the sierra; having previously had all the necessary proceedings as prescribed by law, by virtue of the power to me conferred, and in the name of the Mexican nation, I have granted to him the said land, declaring him owner in full porperty by these letters patent, subject to the approval of the departmental junta and under the following conditions:

1st. He may enclose it without prejudice to the crossings, roads, and servitudes; he will enjoy it freely and exclusively, putting it to whatever use or cultivation which he may think fit, but within a year he shall build a house, and it shall be inhabited.

2d. He shall solicit of the respective judge juridical possession by virtue of this despatch, by whom the boundaries shall be marked, and landmarks shall be placed, and some fruit trees or wild trees of some utility.

3d. The land of which mention is made is one sitio de ganado mayor, (one square league,) a little more or less, as explained in the map which goes with the respective espediente. The judge who shall give possession will have it surveyed in accordance with the ordinance, leaving the overplus which may result to the nation for its convenient uses.

Therefore I order that, this title being held as firm and valid, due note be taken of it in the corresponding book, and that it be delivered to the interested party for his security.

Given at Monterey on the twentieth day of August, one thousand eight hundred and forty-two.

I, George Fisher, secretary to the U. S. land commission to ascertain and settle private land claims in the State of California, hereby certify the foregoing to be a true and correct translation of a document in case No. 503, Maria Z. B. Berreyesa vs. The United States, now on file in this office.

In testimony whereof, I have hereunto signed my name at office, at the city of San Francisco, Cal'a, this 2d day of Jan'y, A. D. 1855.

GEO. FISHER, *Sec'y.*

Filed in office Jan'y 2, 1855.

GEO. FISHER, *Sec'y.*

*Espediente of Justo Larios.*

Espediente.

Promovido por el ciudadano Justo Larios en solicitud del parage conocido con el nombre de Cañada de los Capitancillos.

1842.

294.

Sello Terceo—Dos Reales.

Habilitado provicionalmente por la aduana maritima del puerto de Monterrey en el departmento de las Californias para las años de mil ochocientos cuarenta y mil ochocientos cuarenta y una.

ANTONIO MARIA OSIO.

ALVARADO.

[SEAL.]

Rehabilitado por la misma para el año de mil ochocientos cuarenta y dos.

ANTONIO MARIA OSIO.

ALVARADO.

S'or Prefecto del 1st Distrito:

Justo Larios ante V. E. con el mas debido respeto dice: que habiendo comprado á Leandro Galindo una casa que tenia situada en el parage conocido con el nombre de la Cañada de los Capitancillos me cedio el derecho que tenia al terreno por concesion del Y. A. del P. de S. José Guadalupe coma caesta en el espediente que presente en el año de 1836 al E. S. governador e igualmente de otro que presente el año de '40 al S'or Don José Maria Villa, encargado entonces de la prefectura de 1er distrito y como ambos espedientes hace sido p'r des gracia estraviados, suplico a V. S. se digne admitur este y espedir me el terreno que solicito y hoy pases desde en el año de 1836. Declarandome la propiedad, los limites de d'ho sitio son desde los linderos de Santa Clara hasta el corral llamado del finado Macario.

Por tanto, A. V. S. suplico se digne aceder a esta mi peticion en lo que recibire gracia y merced.

Acompaño a V. S el diseño del sitio q'e pretendo.

Monterey, Junio 15, de 1842.

EL SUPLICANTE.

MONTEREY, 16 *de Junio, de* 1842.

Habiendo arreglado los linderos por el prefecto y juez de paz de este lugar del terreno que pretende el interesado, estiendose el correspondiente decreto de concesion.

Juan B. Alvarado, Gobernador Constitucional del Departmento de las Californias.

Por cuanto el c'no Justo Larios ha pretendido para su beneficio personal y el de su familia el terreno conocido con el nombre de los Capitancillos; colindante con la sierra, con el arroyo Seco por la parte del establecimiento de S'ta Clara y con el rancho del ciudadano José R. Berreyesa el cual tiene por lindero el angulo que forma el arroyo Seco y el de los Alamitos rumbo al sur la falda de la loma cituado en el sentrò de la cañada, asi al este hasta, llegar a la sierra practicados previamente las diligencias y aberiguaciones consernientes segun lo dispuesto por leyes y reglamentos de la materia, usando de las facultades que me son lonjeridos a nombre de la nacion Mejicana, ha venido en concederle el terreno mensionado, declarandole la propiedad de el por las presentes letras sujetandose a la aprobacion de la ex'mo junta departmental y a las condiciones siguientes:

1o. Podra sercarlo sin perjudicar los travecios caminos y servidumbres, lo disfrutara libre y esclusivamente destinandolo al uso ó cultivo que mas le acomode pero dentro de un año fabricaro casa y estara habitado.

2o. Solicitara del juez respectivo que la de la posecion juridica en virtud de este despacho por el cual se demarcaran los linderos en cuyos limites pondra a mas de las mohoneras algunos arboles frutales ó silvestres de alguno utilidad.

3o. El terreno de que se hace mencion es de un sitio de ganado mayor poco mas ó menos, segun esplica el diseño que corre en el espediente respectivo. El juez que diere la posecion, lo hara medir conforme a ordenanza que dando el sobrante que resulte o la nacion para los usos que mas le conbargan.

4o. Si contraveniere á estas condiciones para su derecho al terreno y sera denunciable por otro.

En consecuencia mando que teniendose por firme y valedero este titulo se tome razon de el en el libro sobre adjudicaciones de terrenos baldios y se entregue al interesado para en resguardo y demas fines.

Dado en Monterrey, a 1o de Ag'o, de 1842.

[*Here follows map or plan; see original, page* 93.]

Sello Tercero—Dos Reales.

Habilitado provisionalmente por la aduana maritima del puerto

de Monterrey, en el departmento de las Californias, para los años de mil ochocientos cuarenta y mil ochocientos cuarenta y ano.

ANTONIO MA. OSIO.

ALVARADO.

Rehabilitado por lo misma para el año de mil ochocientos cuarenta y dos.

ANTONIO MA. OSIO.

ALVARADO.

MONTEREY, 16 *de Junio, de* 1842.

Vista la peticion con queda principio este espediente el abenimiento que tubaron los ciudadanos Justo Larios y José R. Berreyesa con presencia del prefecto y juez de paz de este lugar, con todo lo demas que se turo presente y ver convino de conformidad con las leyes y reglamentos, de la materia, declarral mencionado Justo Larios diseño en propiedad de una parte del terreno nombrado Cañada de los Capitancillos, colindante con la sierra, con el Arroyo Seco por la parte del establecimiento de Sta. Clara, y con el rancho del ciudadano José Reyes Berreyesa, el cual tiene por lindero el angulo que forma el Arroyo Seco la falda de la loma situada en el sentro de la cañada, asi á al este y hasta llegara la sierra. Libre se el correspond'te despacho, tomese razon en el libre respectivo y dingase este espediente á la exmo. junta departmental para su aprobacion.

El Señor Don Juan B. Alvarado, gob'or constitutional del departmento de las Californias asi lo mando decreto y firmo de que doy fee.

OFFICE OF THE SURVEYOR GENERAL OF THE UNITED STATES FOR CALIFORNIA.

I, John C. Hays, surveyor general of the United States for the State of California, and as such now having in my office and under my charge and custody a portion of the archives of the former Spanish and Mexican (archives) territory or department of Upper California, by virtue of the power vested in me by law, do hereby certify, that the nine preceding and hereunto annexed pages of tracing paper, numbered from one to nine inclusive, and marked with the letters (S. D. K.,) are *are* a true and accurate copy of a certain document now on file and forming part of the said archives in this office.

In testimony whereof, I have hereunto signed my name officially, and affixed my seal of office, at the city of San Francisco, this eighteenth day of December, 1854.

JOHN C. HAYS,
*U. S. Surveyor General for California.*

Filed in office Dec. 19, 1854.

GEO. FISHER, *Sec'y.*

B.—*Translation of Espediente.*

Espediente.

Presented by the citizen Justo Larios, who asks for the place known by the name of the Cañada de los Capitancillos.

1842.

294.

Third Seal—Two Reales.

Authorized provisionally by the maritime custom-house of the port of Monterey, in the department of the Californias, for the years 1840 and 1841.

ANTONIO MARIA OSIO.

ALVARADO.

[SEAL.]

Authorized again for the year 1842.

ANTONIO MARIA OSIO.

ALVARADO.

To the Prefect of the 1st District:

I, Justo Larios, respectfully say, that, having purchased from Leandro Galindo a house which he had, situated at the place known by the name of the Cañada de los Capitancillos, he conveyed to me all the right which he had to the land by the concession of the illustrious ayuntamiento of the pueblo of San José Guadalupe, as appears in the record of proceedings which I presented in the year 1840 to Don José Maria Villa, then prefect of the 1st district, and as both records have been unfortunately lost, I pray your excellency to receive this, and grant me the land which I solicit, and which I have possessed since the year 1836, declaring it my property.

The limits of said tract are from the boundaries of Santa Clara to the corral called the corral of the late Macario.

Wherefore I beseech your excellency to grant this my petition, whereby I shall receive favor and reward. I herewith present to your excellency the map of the tract which I ask.

Monterey, June 16, 1842.

THE PETITIONER.

MONTEREY, 16 *June*, 1842.

The boundaries of the land which the petitioner asks having been regulated by the prefect and justice of the peace of this place, let the proper decree of concession be issued.

Third Seal—Two Reales.

Authorized provisionally by the maritime custom-house of the

4181

port of Monterey, in the department of the Californias, for the years 1840 and 1841.

ANTONIO MARIA OSIO.

ALVARADO.

[SEAL.]

Authorized again for the year 1842.

ANTONIO MARIA OSIO.

ALVARADO.

MONTEREY, 16 *June*, 1842.

In view of the petition with which this espediente begins, the settlement which the citizens Justo Larios and José R. Berreyesa had in the presence of the prefect and justice of the peace of this place, and everything else relating thereto, in conformity with the laws and regulations on the subject, I declare the said Justo Larios owner in full property of a part of the land called Cañada de los Capitancilos, bounded by the sierras, by the Arroyo Seco on the side of the establishment of Santa Clara, and by the rancho of the citizen José Reyes Berreyesa, which has for boundary a line commencing at the angle formed by the junction of the Arroyo Seco and the Arroyo de los Alamitos; thence southward to the sierra, passing by the eastern base of the small hill situated in the centre of the cañada.

Let the proper decree be issued and registered in the proper book, and let this record of proceedings be forwarded to the departmental assembly for its approval.

Don Juan B. Alvarado, constitutional governor of the department of the Californias, so ordered, decreed and subscribed. To all which I certify.

Juan B. Alvarado, Constitutional Governor of the Californias.

Whereas the citizen Justo Larios has asked, for his own benefit and that of his family, the land known by the name of the Capitancillos, bounded by the sierra, by the Arroyo Seco on the side of the establishment of Santa Clara, and by the rancho of citizen José R. Berreyesa, which has for boundary a line running from the junction of the Arroyo Seco and the Arroyo de los Alamitos, southward to the sierra, passing by the eastern base of the small hill situated in the centre of the cañada, the necessary steps having been taken, and inquiries made according to the laws and regulations on this subject, by virtue of the powers conferred upon me, in the name of the Mexican nation, I have granted him the said land, declaring it his property by these presents, subject to the approval of the departmental assembly, and to the following conditions:

1st. He may enclose it without injury to the passes, roads and

B.—*Translation of Espediente.*

Espediente.

Presented by the citizen Justo Larios, who asks for the place known by the name of the Cañada de los Capitancillos.

1842.

294.

Third Seal—Two Reales.

Authorized provisionally by the maritime custom-house of the port of Monterey, in the department of the Californias, for the years 1840 and 1841.

ANTONIO MARIA OSIO.

ALVARADO.

[SEAL.]

Authorized again for the year 1842.

ANTONIO MARIA OSIO.

ALVARADO.

To the Prefect of the 1st District:

I, Justo Larios, respectfully say, that, having purchased from Leandro Galindo a house which he had, situated at the place known by the name of the Cañada de los Capitancillos, he conveyed to me all the right which he had to the land by the concession of the illustrious ayuntamiento of the pueblo of San José Guadalupe, as appears in the record of proceedings which I presented in the year 1840 to Don José Maria Villa, then prefect of the 1st district, and as both records have been unfortunately lost, I pray your excellency to receive this, and grant me the land which I solicit, and which I have possessed since the year 1836, declaring it my property.

The limits of said tract are from the boundaries of Santa Clara to the corral called the corral of the late Macario.

Wherefore I beseech your excellency to grant this my petition, whereby I shall receive favor and reward. I herewith present to your excellency the map of the tract which I ask.

Monterey, June 16, 1842.

THE PETITIONER.

MONTEREY, 16 *June*, 1842.

The boundaries of the land which the petitioner asks having been regulated by the prefect and justice of the peace of this place, let the proper decree of concession be issued.

Third Seal—Two Reales.

Authorized provisionally by the maritime custom-house of the

4181

port of Monterey, in the department of the Californias, for the years 1840 and 1841.

ANTONIO MARIA OSIO.

ALVARADO.

[SEAL.]

Authorized again for the year 1842.

ANTONIO MARIA OSIO.

ALVARADO.

MONTEREY, 16 *June*, 1842.

In view of the petition with which this espediente begins, the settlement which the citizens Justo Larios and José R. Berreyesa had in the presence of the prefect and justice of the peace of this place, and everything else relating thereto, in conformity with the laws and regulations on the subject, I declare the said Justo Larios owner in full property of a part of the land called Cañada de los Capitancilos, bounded by the sierras, by the Arroyo Seco on the side of the establishment of Santa Clara, and by the rancho of the citizen José Reyes Berreyesa, which has for boundary a line commencing at the angle formed by the junction of the Arroyo Seco and the Arroyo de los Alamitos; thence southward to the sierra, passing by the eastern base of the small hill situated in the centre of the cañada.

Let the proper decree be issued and registered in the proper book, and let this record of proceedings be forwarded to the departmental assembly for its approval.

Don Juan B. Alvarado, constitutional governor of the department of the Californias, so ordered, decreed and subscribed. To all which I certify.

Juan B. Alvarado, Constitutional Governor of the Californias.

Whereas the citizen Justo Larios has asked, for his own benefit and that of his family, the land known by the name of the Capitancillos, bounded by the sierra, by the Arroyo Seco on the side of the establishment of Santa Clara, and by the rancho of citizen José R. Berreyesa, which has for boundary a line running from the junction of the Arroyo Seco and the Arroyo de los Alamitos, southward to the sierra, passing by the eastern base of the small hill situated in the centre of the cañada, the necessary steps having been taken, and inquiries made according to the laws and regulations on this subject, by virtue of the powers conferred upon me, in the name of the Mexican nation, I have granted him the said land, declaring it his property by these presents, subject to the approval of the departmental assembly, and to the following conditions:

1st. He may enclose it without injury to the passes, roads and

servitudes; he may enjoy it freely and exclusively, using or cultivating it as may best suit him, but within one year he shall build a house and it shall be inhabited.

2d. He shall solicit the proper judge to give him juridical possession in virtue of this decree, by whom the boundaries shall be marked out, and he shall put on the boundaries, in addition to the landmarks, some fruit trees or useful forest trees.

3d. The land herein referred to is one league of the larger size, a little more or less, as is explained by the map accompanying the espediente. The judge who shall give the possession shall have it measured in conformity to law, leaving the surplus which remains to the nation for the purposes which may best suit it.

4th. If he should violate these conditions, he shall lose his right and be liable to be denounced by another.

Wherefore I order that this title, being held firm and valid, shall be registered in the book of adjudications of vacant lands, and delivered to the person interested, for his protection and other purposes.

Given in Monterey the 1st of August, 1842.

I, George Fisher, secretary of the board of United States land commissioners to ascertain and settle private land claims in the State of California, hereby certify that the foregoing is a true and correct translation of a Spanish document on file in this office, in case No. 340, Charles Fossat, and in my keeping and custody as such secretary.

GEO. FISHER, *Sec'y.*

Filed in office Sept. 13, 1852.

(Signed) GEO. FISHER, *Sec'y.*

*Title B, annexed to Deposition of Juan B. Alvarado, December* 16, 1853.

Sello Primero—Seis Pesos.

Habilitado provicionalmente por la aduana maritima de Monterey para los años de 1842, '43.

ANTONIO MARIA OSIO.

ALVARADO.

[SEAL.]

Juan B. Alvarado, Gobernador Constitucional del Departamento de las Californias.

Por cuanto el ciudadano José Reyes Berreyesa, ha pretendido para su beneficio personel y el de su familia el terreno conocido con el nombre de Cañada de los Capitancillos; colindante al norte con las lomerias bajas immediates al plan del pueblo de San José, al sur con la sierra, al oriente con las lomerias del Laurel y al poniente con al rancho del ciudadano Justo Larios, el cual tiene por lindero

el angulo que forma el arroyo Seco y el de los Alamitos rumba al sur la falda de la loma cituada al centro de la cañada, asia al este y hasta llegar ó la sierra, practicados previamente las diligencia y averiguaciones conformites segun lo dispuesta por leyes y reglamentos; mando de las facultades que me son conferidas á nombre de la nacion Mejicana he venido en concedar le el terreno mencionado declarandole la propiedad de el por las presentes letras sugetandose á la aprobacion de la ex'ma junta departamental y bayo las condiciones siguientes:

1o. Podra securlo sin prejudica las travesios caminos y servidumbres, lo disputara libre y exclusivamente destinandole al uso ó cultivo que mas le acomode pero dentro de un año fabricara casa y estará habilitada.

2o. Solicitara del juez respectivo que le de posecion juridica, en virtud de este despacho por el cual se demarcaran los linderos en cuyos limites pondra a mas de las mohoneras algunos arboles frutales ó silvestres de alguna utilidad.

3o. El terreno de que se hace donacion es de un sitio de ganado mayor segun esplica el diseño que corre en el espediente. El juez que dierra la posecion lo hara medir conforme o ordenanza que dando el sobrante que resulte o la nacion para las usos convenientes.

4o. Si contraveniere a estas condiciones, perdua su derecho al terreno y sera denunciable por otro.

En consecuencia mando que teniendose por firme y valedero este titulo se tome razon de el en el libro respectivo y se entregue al interesado para su resguardo y demas fines.

Dado en Monterrey, a veinte de Agosto de mil ochocientos cuarenta y dos.

JUAN B. ALVARADO.

MANUEL JIMENO, *S'rio.*

Queda tomada razon, de este despacho, en el libro de asi entos sobre adjudicacion de terrenos baldios a fojas 15.

JIMENO.

El Ex'mo S'or gobernador has dispuesta se tome razon de esta concesion en la prefectura del 1st distrito.

JIMENO.

Tomese razon. ESTRADA.

Jueda tomada razon de este superior titulo en el canderno respectivo de esta oficina de un cargo en la foja 8 frente.

Monterrey, Sep. 22, de 1842.

JOSÉ MARIA CASTANARES,
*S'rio Ter'o.*

STATE OF CALIFORNIA,
*Santa Clara County.*

Be it remembered, that on this the 24th day of December, A. D. 1850, before me personally came Juan B. Alvarado, the grantor of the within deed to José Reyes Berreyesa, and acknowledged to me that he did, as governor of the department of California in the years 1842 and 1843, sign the foregoing instrument to the said Berreyesa, and the signatures thereto *is* true and genuine, for the purposes therein mentioned.

And I certify that the said J. Berreyesa and Alvarado are personally known to me.

In testimony whereof, I have hereunto set my hand and affixed my private seal, not having an official seal, at the date last above written.

J. J. RICHARDSON,
*Recorder of said Co'ty.*

Filed at 12.10 o'cl'k p. m., 24 December, 1850.

J. J. RICHARDSON,
*Recorder Sec'y.*

Recorded in book of deeds C, pages 83, 84, 85, archives of Santa Clara county, Cal.

JOHN J. RICHARDSON,
*Recorder S.*

Filed in office Dec. 30, 1852.

GEO. FISHER, *Sec'y.*

*Translation of Title.*

Translation of the title for San Vicente of Cañada de los Capitancillos granted to José Reyes Berreyesa by Governor Juan B. Alvarado.

Third Seal.

Provisionally supplied by the maritime custom-house of Monterey for the years 1842 and 1843.

ANTONIO MA. OSIO.

ALVARADO.

[SEAL.]

Juan B. Alvarado, Constitutional Governor of the Department of the Californias.

Whereas the citizen José Reyes Berreyesa has solicited, for his personal benefit, and that of his family, a portion of the place called Cañada de los Capitancillos, bounded on the north with the low range of hills adjoining the valley of the pueblo of San José, on the south with the sierra, on the east with the range of hills del

4183

Laurel, and on the west with the rancho of the citizen Justo Larios, which has for its boundary line the angle formed by the junction of the arroyo Seco and the Alamitos; thence running south by the eastern slope of the hill situated in the centre of the cañada, until the line meets the sierra; having previously had all the necessary proceedings as prescribed by law, by virtue of the power to me conferred, and in the name of the Mexican nation, I have granted to him the said land, declaring him owner in full property by these letters patent, subject to the approval of the departmental assembly, and under the following conditions:

1st. He may enclose it without prejudice to the crossings, roads and servitudes, will enjoy it freely and exclusively, putting it to whatever use or cultivation which he may think fit, but within a year he shall build a house, and it shall be inhabited.

2d. He shall solicit of the respective judge juridical possession by virtue of this despatch, by whom the boundaries shall be marked, and landmarks shall be placed, and some fruit trees and wild trees of some utility shall be planted.

3d. The land of which mention is made is one sitio de ganado mayor, one square league, as explained in the map which goes with the espediente. The judge who shall give possession will have it surveyed in accordance with the ordinance, leaving the overplus which may result to the nation for its convenient uses.

4th. If he contravene these conditions he shall lose his right to the land, and it shall be denunciable by another.

Therefore I order that this title being held as firm and valid, due note be taken of it in the corresponding book, and that it be delivered to the interested party for his security.

Given at Monterey, on the 20th day of August, 1842.

(Signed) JUAN B. ALVARADO.

(Signed) MANUEL JIMENO,
*Secretary.*

Due note of this despatch has been made in the book of records relating to the distribution of vacant lands, on page 15.

(Signed) JIMENO.

His excellency, the governor, has ordered that due note of this grant be made in the office of the prefect of the 1st district.

(Signed) JIMENO.

Let note be taken of this.

(Signed) ESTRADA.

Due note of this superior title has been made in the respective book of the office under my charge, on page 8.

Monterey, Sep. 22, 1842.

(Signed) JOSÉ MARIA COVARRUBIAS,
*Sec'y of the Prefect.*

I, George Fisher, secretary to the U. S. land commissioners to ascertain and settle private land claims in California, hereby certify the foregoing to be a true and correct translation of document in case No. 503, Maria Z. B. Berreyesa vs. the United States, now on file in this office.

In testimony whereof, I have hereunto signed my name at office, at the city of San Francisco, Cal., this 2d day of January, A. D. 1855.

(Signed) GEO. FISHER, *Sec'y.*

Filed in office Dec. 30, 1854,

(Signed) GEO. FISHER, *Sec'y.*

*Espediente.*

Ex'mo S'or: El C. José R. Berreyesa, vecino del pueblo de S. José Guadalupe ante V. E. como mas haya lugar y el derecho le permite se presente y dice; que hace ya el tiempo de dies años que se haya radicado y establecido con su numerosa familia en este su rancho de S. Vicente Cañada de los Capitancillos y desde aquella f'ha no ha omitado diligencia alguna para poder comequir su despacho o un titulo que le asegune su legitima propiedad; p'r q'e aunque en el año anterior de cuarenta y dos receivo un titulo espedido por el Sr. Dn. Juan B. Alvarado, pero como no era conforme al espediente que presente a la superioridad diera de que un sujetaba a un sitio permanente siaebo asi que desde su principio, siempre ha sido un solicitud de dos sitios para ganado mayor y que actualmente les tengo ocupados como es constante y lupio con la latitud de seiscientos seis; y p'r esta causa no puedo admitur el titulo que me mandaron en aquella res y fuy yo mismo en persona y se lo desde y entregue en sus manos o Don Manuel Gimeno diciendole la causa p'r q'e no me conformaba carrel y como en aquellas, demas fué y susedio le tome de Monterrey yo me recire y no he padido baldar o leer a este negocio tan iregto pero a hora condicion que va uno palona demi casa lo hago por medio de este escrita suplicando a V. E. si lo tiene a biers ordenar que se mi estiendo y remitio un despacho correspondente en estos terminos. Desde la punta de la lomita, con al poniente que esta en el centro de la cañada hasta el plan del arroyo de las Yagas entre la sierra y con todo la lomeria que pertenece a la dicha estrecha cañada de los ayetancidos y que tiene de longitud dos sitios poco mas o menos, y de latitud no tiene un cuatro de legua nices lomas ancho que este derroh tenga mi casa y subsistencia.

Por tanto A. V. E. rendivamente suplico se digne ver propicio esto un suplicatoria de que le vivire reconocido.

S. Vicente, 1o de Febo. de 1844.

JOSÉ R. BERREYESA.

4184

MONTERREY, *Feb'o* 15 *de* 1844.

Informe el S. s'rio del despacho.

MICHELTORENA.

Ex'mo S'or Gobernador:

Al que representa se le concedio un solo sitio de ganado mayor como consta en el espediente respectivo y se mi presentan es de tener una estension sevio conveniente que informara el juez del pueblo de San José con citacion de los colindantes principalm'te canel vecido Justo Larios con quiere antes tieno cuestion.

No tengo presente que un haya entregada, su titulo el interesado y no tenia para que informe de documento, que tal ven no sobre endaramente donde lo paro, pero se no citare un testimonio de la concesion que le hero puedo presentar el papel sellado que corresponde. El superior diseveremiento de V. E. resolvera lo que crea conveniente.

Monterey, Feb'o 15, de 1844.

MANUEL JIMENO.

MONTEREY, *Feb'o* 16 *de* 1844.

Como informa el S. s'rio de un despacho informe el juez con citacion de los colindantes y luego que se erame aguele, resuelva el interesado con el papel respectivo para el nuevo titulo.

MICHELTORENA.

En complimiento de lo dispuesto por el superior gobierno en diez y sies de Feb'o, del presente año, hise comparecer a Dn. Justo Larios, como colindante del terreno de que se hace mencion en la presente instancia y hecho presento o este el escrita formado por el interesado espuero q'e p'a dar su parecer enclera puriso premitador y llegar dute el gobierno pero en seguida medio una mutua comberracion y el en la forma y lugue. El rincon del arroyo conocido p'r el nombre de los Alamitos que confronta con la punta de la loma servia de lindero a ambas partes y ase quedan suyeto los interesados.

Es cuanto a la ver puedo informar sobre el particular.

Pueblo de S. José, Mayo 22, de 1844.

ANTONIO M'A PICO.

Ex'mo S'or Gobernador:

Segun la conformidad del colindante Justo Larios parece que no hay inconveniente alguno para que se la estienda nuevo titulo.

Monterey, Julio 15 de 1844.

MANUEL JIMENO.

Espidose.

MICHELTORENA.

Monterey, Julio 23 de 1844.

OFFICE OF THE SURVEYOR GENERAL OF THE
UNITED STATES FOR CALIFORNIA.

I, John C. Hays, surveyor general of the United States for the State of California, and as such now having in my office, and in my charge and custody, a portion of the archives of the former Spanish and Mexican territory, or department of Upper California, by virtue of the power vested in me by law, do hereby certify that the four preceding and hereunto annexed pages of tracing paper, numbered from one to four inclusive, exhibit a true and accurate copy of a portion of a certain document entitled "Espediente promovido por el ciudadado Reyes Berreyesa, en solicitud del parage nombrado la Cañada de los Capitancillos, 293;" said document now being on file, and forming part of the said archives in this office.

In testimony whereof I have hereunto signed my name officially, and caused my seal of office to be affixed, at the city of San [SEAL.] Francisco, the tenth day of February, A. D. 1854.

JOHN C. HAYS,
*U. S. Surveyor General for California.*

Filed in office March 30, 1855.

GEO. FISHER, *Sec'y.*

*Translation of Espediente.*

Translation of proceedings or additional espediente of José R. Berreyesa soliciting additional land of the place called San Vicente Cañada de los Capitancillos.

MOST EXCELLENT SIR: The citizen José R. Berreyesa, residing near the pueblo of San José Guadalupe, before your excellency in due form of law appears and says: That it is now ten years since he settled upon and has established himself with his numerous family on this his rancho of S. Vicente Cañada de los Capitancillos, and since that time he has never omitted that diligence which was necessary on his part to get his despatch or title by which his legitimate property might be secured to him, for although in the year eighteen hundred and forty-two he received a title issued by S'r D'n Juan B. Alvarado, yet as this was not in entire conformity with the espediente which I presented to his excellency, since it restricted me to one sitio, when from the first commencement my petition has always been for two sitios of ganado mayor, (two square leagues,) which I have actually in possession, as it is well known, with six hundred head of neat cattle. For this reason I could not admit the title which was sent to me at that time, and I myself went in person and returned it, and I delivered it to D. Manuel Jimeno, in his own hands, stating to him the reason why I was not satisfied with it, and as at that time the taking of Monterey occurred, I left that place, and I have not been able to return there since to attend to this important business, but now,

as an opportunity offers to send it by one of my relations who goes to that place, I do it through this petition, begging of you, if you think it right, to be pleased to decree that my corresponding title be issued and sent to me, and that it be in these terms, viz:

From the edge of the little hill which is situate in the centre of the cañada towards the west, to extend to the flat of the Arroyo de los Yagas, between the sierra, mountain, and with all the hills which of the narrow Cañada de los Capitancillos, and which is longitude two leagues, sitios, a little more or less, and in latitude it is not one-fourth of a league, even at the widest point, which is where I have my house.

Therefore I most humbly ask of your excellency that you be pleased to give a propitious hearing to my petition, for which I shall always be grateful to your excellency.

S. Vicente, February 10, 1844.

(Signed) JOSÉ R. BERREYESA.

MONTEREY, *Feb'y* 15, 1844.

Let the secretary of despatch give a report.

(Signed) MICHELTORENA.

SEÑOR GOVERNOR: Only one square league (sitio de ganado mayor) was granted to this petitioner, as appears by the respective espediente, and if his petition is to have a greater extent, it would be proper to let the judge of the pueblo of San José give his report, having previously cited the adjoining proprietors, and especially the adjoining neighbor, Justo Larios, with whom he formerly had a dispute.

I have no recollection of the interested party's having delivered to me his title, and he had no business to deliver me that document; and probably he does not know where he has put it; but if he desires a (testimonio) certified copy of the grant which was made to him, he might get and present the corresponding stamped paper.

Your excellency's better judgment will determine whatever you think fit.

(Signed) MANUEL JIMENO.

Monterey, Feb'y 15, 1844.

MONTEREY, *Feb.* 16, 1844.

As suggested by the secretary of my despatch, let the judge give a report, having first cited the adjoining proprietors. This being done, let it be returned to the interested party, with the corresponding document for a new title.

(Signed) MICHELTORENA.

In obedience to the superior decree of the government, of the sixteenth of February, of the present year, I summoned D'n Justo

Larios to appear before me, he being adjoining proprietor to the tract of land mentioned in the foregoing petition presented by the interested party. He said, that in order to give his opinion, he had to reflect and to appear before the government; but afterwards there was a mutual agreement, which was as follows, to wit:

The bend (rincon) of the creek (arroyo) known by the name of the Alamitos, which is opposite the edge of the hill, will serve as a boundary between the two parties; and thus the interested parties were satisfied.

This is all that I can report in regard to this matter.

Pueblo de S. José, May 22, 1844.

(Signed) ANTONIO M'A PICO.

MOST EXCELLENT GOVERNOR: The citizen Justo Larios being satisfied, it seems to me that there is no objection to the issuing of a new title.

Monterey, July 15, 1844.

(S'gd) MANUEL JIMENO.

MONTEREY, *July* 23, 1844.

Let the title issue.

(S'gd) MICHELTORENA.

Filed in office March 20, 1855.

(S'gd) GEO. FISHER, *Sec'y.*

*Opinion of the Board of Land Commissioners.*

MARIA Z. B. BERREYESA et al.
vs.
THE UNITED STATES. } No. 503.

It appears from the espediente in this case, a traced copy of which, duly certified, is placed on file, that José R. Berreyesa, the husband and father of the present claimants, about the year 1834, under permission from Governor Figueroa, entered upon and occupied with his family the land claimed in the case, called San Vicente, in the Cañada de los Capitancillos, which occupation was continued by him under said authority until June, 1842. About that time a controversy arose between him and Justo Larios, who had settled on the lands immediately below and adjoining him, in relation to their boundary line between them; in consequence of which, the said Berreyesa presented his petition to the governor, praying for an adjustment of the said boundary and a formal title to the lands as occupied by him to the extent of two square leagues. After various references and reports, the dividing line was finally agreed upon and settled, and a report of the same returned to the governor, by whom a grant was issued to Berreyesa for one square league, describing the boundary in accordance with said report, with reference to the map contained in the espediente, on which the dividing line above referred to is dotted off.

A second petition was presented by the said Berreyesa to Gover'r Micheltorena on the 10th day of February, 1844, a traced copy of which is also on file in the case, complaining that the former grant did not give him the quantity of land asked for, and stating that he had delivered it to the secretary of state, Jimeno, to be surrendered, in order to obtain a new grant for the two leagues as originally petitioned for.

This petition was passed through the usual forms, and the espediente concludes with an order of the governor directing the title to issue.

So far as appears in this case, no grant was made upon this order, and the claimants have their right to a confirmation upon the first grant of one square league, the original of which is produced in evidence, and its genuineness proved.

A great amount of testimony has been taken in the case in relation to the boundaries of the tract and the location of the quicksilver mines of New Almaden, within its limits, but, under the recent decision of the Supreme Court in the case of John C. Fremont, that testimony cannot affect the right of the claimant to a confirmation.

A full compliance with all the conditions of the grant is shown by the evidence, and the land granted is identified with sufficient certainty to obviate any difficulty in its location and survey. The claim is clearly a meritorious one, and a decree confirming it will be entered.

Filed in office July 3, 1855.
(Signed) GEO. FISHER, *Sec'y.*

*Decree of Confirmation.*

MARIA Z. BERNAL BERREYSA, widow, and José S. Berreyesa and others, children and heirs of José Reyes Berreyesa, dec'd,
vs.
THE UNITED STATES. } No. 503.

In this case, on hearing the proofs and allegations, it is adjudged by the commission that the claim of the petitioners is valid, and it is therefore decreed that the same be confirmed.

The land of which confirmation is made is situated in the county of Santa Clara, and is known by the name of San Vicente, being a portion of the place called the Cañada de los Capitancillos, adjoining the lands granted to Justo Larios, and containing one square league; to be located according to the description and within the boundaries set out in the original grant, and delineated in the

map contained in the espediente, to both of which reference is made for a more particular description.

R. AUG. THOMPSON,
S. B. FARWELL,
*Commissioners.*

Filed in office July 3, 1855.
(Signed) GEO. FISHER, *Secr'y.*

*Order.*

And it appearing to the satisfaction of this board that the land hereby adjudicated is situated in the northern district of California, it is hereby ordered that two transcripts of the proceedings and of the decisions in this case, and of the papers and evidence on which the same are founded, be made out and duly certified by the secretary, one of which transcripts shall be filed with the clerk of the United States district court for the northern district of California, and the other be transmitted to the Attorney General of the United States.

*Certificate of Secretary.*

OFFICE OF THE BOARD OF COMM'RS TO ASCERTAIN AND SETTLE THE PRIVATE LAND CLAIMS IN THE STATE OF CALIFORNIA.

I, Geo. Fisher, secretary to the board of commissioners to ascertain and settle the private land claims in the State of California, do hereby certify the foregoing one hundred and seventeen pages, numbered from 1 to 117 inclusive, to contain a true, correct, and full transcript of the record of the proceedings and of the decision of the said board, of the documentary evidence, and of the testimony of the witnesses upon which the same is founded, on file in this office in case No. 503 on the docket of the said board, wherein Maria Z. B. Berreyesa et al, are the claimants against the United States, for the place known by the name of one square league of land near the pueblo of San José.

In testimony whereof I have hereunto set my hand and affixed my private seal (not having a seal of office) at San Francisco, California, this tenth day of December, A. D. 1855, and of the independence of the United States of America the eightieth.

GEO. FISHER, [SEAL.]
*Sec'y.*

Endorsed: Filed December 24, 1855.

JOHN A. MONROE,
*Clerk.*

*Notice of Appeal.*

OFFICE OF THE ATTORNEY GENERAL OF THE UNITED STATES,
*Washington*, 11*th Feb'y*, 1856.

503. "A league of land near the pueblo of San José." Maria L. B. Berreyesa et als., claimants.

You will please take notice that in the above case, decided by the commissioners to ascertain and settle private land claims in the State of California in favor of the claimant, and a transcript of the proceedings in which was received in this office on the 1st day of January, 1856, the appeal in the district court of the United States for the northern district of California will be prosecuted by the United States.

C. CUSHING,
*Attorney General.*

Endorsed: Filed April 4, 1856.

JNO. A. MONROE, *Clerk.*
By W. H. CHEVERS, *Deputy.*

*Petition.*

To the Hon. District Court of the U. S. in and for the northern district of California.

THE UNITED STATES
vs.
M. Z. B. BERREYESA et als. } D. C. 363.—L. C. 503.

The petition of the United States, by their attorney, represents that this cause is an application for a review of the decision of the U. S. land commission, whereby the title of the appellee was confirmed, as will appear by reference to the record in the case; that a transcript of said record was filed in this court Dec. 24, 1855, and a notice of appeal April 4, 1856; that the land claimed lies in said district, and that said title is invalid.

Wherefore appellants pray that this court reverse the decision of the land commission, and decree said title invalid.

San Francisco, Feb'y 21, 1857.

WILLIAM BLANDING,
*U. S. Att'y.*

Endorsed: Filed February 21, 1857.

JNO. A. MONROE, *Clerk.*
By W. H. CHEVERS, *Deputy.*

*Answer.*

In the District Court of the United States, for the northern district of California.

M. Z. B. BERREYESA et als.
ads.
THE UNITED STATES. } D. C. 363.—L. C. 503.

For answer to the petition filed in this case upon the part of the United States, the said claimants say it is true that the said land lies within the said northern district, and within the jurisdiction of this court. But they deny that their title to the same is invalid,

as alleged in said petition, and aver that the same is valid, and pray this honorable court to decree the validity of their said claim.

H. J. THORNTON,
*For Claimants.*

Endorsed: Filed March 21, 1857.

JOHN A. MONROE, *Clerk.*
By W. H. CHEVERS, *Deputy.*

*Exhibit M. N.—Certified Copy of Espediente.*

Ex'mo S'r: El C. José R. Berreyesa, vecino del pueblo de S. José Guad'e ante Y. E. como mas haya lugar, y el derecho le permite se presenta y dice; que hace ya el tiempo de dice años qe. se haya radicado y establesido, con su numerosa familia, en este su rancho de S. Vicente, Cañada de los Capitancillos; y desde aquella f'ha, no ha omitido diligencia alguna pa. poder conseguir su despacho, o vu titulo qe. le asegure, su legitima propiedad; pr. qe. aunque en el año anterior de quarenta y dos, recivio vu titulo espedido pr. el S. D. Juan B. Alvarado, pero como no hera conforme al espediente qe. presente a la superioridad, acuasa de qe. me sugetaba a vu sitio puramento; siendo a si, qe. desde vu principio, siempre ha sido mi solicitud de los sitios, pa. ganado mayor, y qe. adualm'te, los tengo sarpados como es costante y verifico, con la cantidad de seiscientas reses; y pl. esta causa no pude admitir el titulo qe. me mandaron en aquella ves; y fuy yo mismo en persona, y se lo debolbi y entregue en sus manos a D. Manuel Gimeno diciendole la cursa pr. qe. no me conformaba con el y como en aquellos dios fue y susedio la toma de Monterey, yo mi recive y no he podido bolben a hir a este negocio tan urgente pero a hora con ocacion qe. ba vua persona ormi casa lo hago pr. medio de este escrito suplicando a V. E. se lo tiene abien, ordenar qe. seme estienda y remita mi despacho correspond'te en estos terminos; desde la punta de la lomita asi al poniente, qe. esta en el sentro de la cañada hasta el plan del arroyo de las Yagas, entre la cierra y con todo el lomeria qe. pertenser a la dicha estrecha Cañada de los Capitancillos, y qe. tiene de longitud, dos sitios, poco mas o menos y de latitud, no tiene vu cuarto de legua ni en lomas ancho qe. es donde tengo mi casa y subsistencia, por tanto.

Ex'mo A. V. E. rendidam'te suplico se digne ver propicio esta mi suplicatorio, de qe. le vivire recomido.

S. Vicente, 10 de Feb'o, de 1844.

JOSÉ REYES BERREYESA.

Monterey, *Feb'o* 15, *de* 1844.

Ynf'e el S. s'rio del despacho.

MICHELTO'A.

S'or Gobernador:

Al que representa se le concedio un so lo sitio de ganado mayor,

como consta en el espediente respectivo y si su pretencion es de tener mas extencion seria conveniente que informara el juez del pueblo de San José con citacion de los colindantes principalm'te con el vecino Justo Larios con quien antes tubo cuestion.

No tengo presente que me haya entregada su titulo el interesado y ni tenia para que dijarme ese documento que tal vez no sobra verdaderamente donde lo puso pero si necesitare un testimonio de la concession que se le hiso pueda presentar el papel sellado que corresponde.

El superior discernimiento de V. E. resolvera lo que crea conveniente.

Monterey, Feb'o 15, de 1844.

MANUEL JIMENO.

MONTEREY, *Feb'o* 16, *de* 1844.

Como informe et S. s'rio de mi despacho informe el juez con citacion de los colindantes y luego qe. se evames agueles, vuelvas chinteres ada con el papel respectivo pa. el nuevo titulo.

MICHELTORENA.

En cumplim'to a lo dispuesta pr. el superior govierno en diez y seis de Feb'o del presente año hise compareser a Dn. Justo Larios como colindante del terreno de qe. se hase mension en la presedente instansia, y hecho presente a este el escrito formado pr. el interesado espuso qe. pa. dar su pareser en era presiso premeditar y llegar ante el govierno pero en seguida medio una mutua conbenasion y es en la forma qe. segun. El rincon del arroyo conocido pr. nombre los Alamillos qe. confronta con la punta de la lomas servira de lindero a ambas partes y asi quedan sujetes los interesados.

El cuanto a la rez puedo informar sobre el particular.

Pueblo de San José, Mayo 22, de 1844.

ANTONIO MARIA PICO.

Ex'mo S'or Gobernador:

Segun la conformidad del colindante Justo Larios, parece que no hay inconveniente alguno para que se le estienda nuevo titulo.

Monterey, Julio 15, de 1844.

MANUEL JIMENO.

MONTEREY, *Julio* 23, *de* 1844.

Espidases.

MICHELTORENA.

OFFICE OF THE SURVEYOR GENERAL
OF THE UNITED STATES FOR CALIFORNIA.

I, John C. Hays, surveyor general of the United States for the State of California, and as such, having in my office and in my charge and custody a portion of the archives of the former Spanish

and Mexican territory or department of Upper California, by virtue of the power vested in me by law, do hereby certify, that the 4 preceding and hereunto annexed pages of tracing paper, numbered from one to 4, inclusive, exhibit a true and accurate copy of the 4 last pages attached to "Espediente promovido por el ciudadano José Reyes Berreyesa en solicitud del parage nombrado la Cañada de los Capitancillos."

In testimony whereof, I have hereunto signed my name officially, and caused my seal of office to be affixed, at the city of San Francisco, this 21st day of March, 1857.

[SEAL.]

JOHN C. HAYS,
*U. S. Surveyor General for California.*

Endorsed: Filed March 23, 1857.

JOHN A. MONROE, *Clerk.*
By W. H. CHEVERS, *Deputy.*

*Stipulation.*

United States District Court for the northern district of California.

THE UNITED STATES
vs.
M. Z. B. BERREYESA et als. } No. 363.

It is hereby stipulated between the district attorney of the United States and the undersigned, counsel for the said appellees, that the document filed in the land commission on the 20th of March, 1855, and recorded in the transcript sent from thence as a part of the evidence read before the said land commission, and being an espediente of an application by said José Reyes Berreyesa, the grantee in this case, by Governor Micheltorena in 1844, contains the matter referred to in the deposition on file of Mr. Evershed, as being pages from 14 to 17, which he states he found in the espediente of Justo Larios, and added to the espediente 293 on file in this case, as the archived espediente of the claim of said Berreyesa before Governor Alvarado in 1842; and that the original documents constituting the said application before Governor Micheltorena are genuine, and that the first of them, viz., the original of the petition signed José Reyes Berreyesa, a copy of which appears on pages 1 and 2 of the traced copy, dated on the 10th day of February, 1844, is entirely in the handwriting of the said José R. Berreyesa, and signed with his genuine signature.

It is further stipulated, that the traced copy now filed in the case and marked "Exhibit M. N." is hereby substituted for the document above referred to as copied in the transcript, the said transcribed copy being very imperfect.

21 March, 1857.

HARRY J. THORNTON,
*Counsel for Appellees.*
WM. BLANDING, *Dist. Att'y.*

4189

Endorsed; Filed March 23d, 1857.

JOHN A. MONROE, *Clerk.*
By W. H. CHEVERS, *Deputy.*

*Deposition of R. C. Hopkins.*

United States District Court, northern district of Cal'a.

SAN FRANCISCO, *March* 21, 1857.

On this day, before Cutler McAllister, commissioner of the United States for the northern district of California, duly authorized to administer oaths, &c , &c., came R. C. Hopkins, a witness produced on behalf of the United States in case No. 363, being an appeal from the board of commissioners to ascertain and settle the private land claims in the State of California, in case No. 503 on the docket of the said board of commissioners, and was duly sworn, and testified as follows:

Present, H. J. Thornton, esq., attorney for claimants, and A. C. Peachy, esq., for U. S. district attorney.

*Questions by U. S. District Attorney.*

R. C. Hopkins. I am clerk in the office of the United States surveyor general; I here produce a document which purports to be a grant made by Governor Alvarado to José Reyes Berreyesa to the place called Cañada de los Capitancillos. I bring this paper from the archives of the late land commission, being one of the papers in case 503. I have carefully compared the said document with a copy of the same appearing on pages 99 and 100 in the transcript of this case on file in the U. S. district court, numbered 363, and find said copy to be correct, with the exception that in the 9th line from the top of page 100, between the words "valeden" and "titulo," instead of the words "El presente," as found in the original, there is the word "Este."

This original paper being the original of a copy in said transcript marked "Title B," annexed to the deposition of Juan B. Alvarado, 10 December, 1853.

GEO. FISHER, *Secretary.*

It is also marked: Filed in office Dec. 30, 1852.

GEO. FISHER, *Secretary.*

R. C. HOPKINS.

Sworn to and subscribed before me this 21 day of March, 1857.

CUTLER McALLISTER, *U. S. Comm'r.*

*Deposition of Juan B. Alvarado.*

United States District Court, northern district of Cal'a.

SAN FRANCISCO, *March* 21, 1857.

On this day, before Cutler McAllister, a commissioner of the United States for the northern district of California, duly authorized to

administer oaths, &c., &c., came Juan B. Alvarado, a witness produced on behalf of the United States, in case No. 363, being an appeal from the board of commissioners to ascertain and settle the private land claims in the State of California, in case No. 503 on the docket of the said board of commissioners, and was duly sworn, and testified as follows:

Present, H. J. Thornton, esq., att'y for claimant; and the U. S. dist. att'y, by A. C. Peachy.

*Questions by U. S. Dist. Attorney.*

Question 1. Look at the document now shown you, being the original brought before the commissioner by R. C. Hopkins, referred to in his deposition, this day taken and filed in this case, and state if you ever saw that paper before, and what you know of its history.

Answer 1. I have seen this document several times; it is a grant, that I gave to Berreyesa when I was governor of California in 1842, of the land Cañada de los Capitancillos.

Question 2. State the history of this paper subsequent to your delivery of it to José R. Berreyesa.

Answer 2. After I gave this document to Berreyesa it came back among my private papers; I don't know how it got back, but in 1848 I sent it to Berreyesa's wife.

Question 3. Have you no recollection of the manner in which you obtained the possession of this paper, or of the person who gave it to you, or of the reason why it was given to you?

Answer 3. I don't know how it got back among my papers, or who brought it to me; when I gave Berreyesa the grant in Monterey, (the) after he received the grant he came to me and explained to me he was not satisfied with this grant, because I did not grant to him two leagues, as he petitioned for; I don't remember at that time whether he left me the grant or sent it to me by another person.

Question 4. Is this the same grant which you found among your private papers and sent to the widow in 1848?

Answer 4. It is.

Question 5. How long were you governor after you made this grant to Berreyesa?

Answer 5. A few months, till the 1st day of December of 1842; Micheltorena succeeded me.

*Cross-examination.*

Questions by att'y for claimants:

Question 1. How long after Berreyesa received his grant was it before he expressed his dissatisfaction to you?

Answer 1. About two or three days after he received the grant, he came to my house for the purpose of expressing his dissatisfaction.

Question 2. Do you know whether or not Berreyesa ever abandoned the land you granted him?

Question objected to on the ground that it is asking the witness's opinion of a matter of law.

Answer 2. I did not hear anything about it.

Question 3. Was not the ground of his dissatisfaction, that the grant you gave him did not contain as much land as he asked for?

Question objected to as leading.

Question withdrawn.

Question 4. What reason did Berreyesa give for being dissatisfied with the title that you gave him?

Answer 4. Because he wanted two leagues of land, and the grant did not give him as much land as that. I told him to ask for more land if he wanted it.

JUAN B. ALVARADO.

Subscribed and sworn to before me this 21st March, 1857.

CUTLER McALLISTER,
*U. S. Comm'r.*

Endorsed: Filed March 26, 1857.

JOHN A. MONROE, *Clerk.*
By W. H. CHEVERS, *Deputy.*

*Deposition of F. A. Sawyer.*

District Court of the United States, northern district of California.

THE UNITED STATES
vs.
M. Z. B. BERREYESA et als. } No. 363.

Present, Hon. M. H. McAllister, circuit judge; Hon. Ogden Hoffman, district judge.

Testimony of F. A. Sawyer, a witness produced on behalf of claimants, taken in open court March 27, 1857.

I understand the Spanish language pretty well. The papers which I hold in my hand, and marked "Exhibit W. H. C. No. 1," is a true translation of the paper marked "Exhibit M. N.," now shown to me. The papers now shown to me, and marked "Exhibit W. H. C. No. 2," is a correct translation of the title "B," annexed to the deposition of Juan B. Alvarado, December 10, 1853; Geo. Fisher, Sec'y. The papers now shown to me, and marked "Exhibit W. H. C. No. 3," is a correct translation—

Examination resumed March 30, 1857—

—of the grant made by Juan B. Alvarado to Justo Larios, as it appears in the certified transcript from the land commission filed

in this cause in this court, contained on pages 90, 91, and 92 of said transcript.

FREDERICK A. SAWYER.

Sworn to and subscribed before me, March 30, 1857.

W. H. CHEVERS,
*Deputy Clerk.*

*Exhibit W. H. C. No.* 1 *to Deposition of F. A. Sawyer.*

No. 363.

United States District Court, northern district of California.

THE UNITED STATES, Appellants,
vs.
WIDOW AND HEIRS OF JOSÉ REYES BERREYESA, Appellees.

"Exhibit M. N."

Certified copy of espediente, filed March 23, 1857.

W. H. CHEVERS, *Deputy.*

The following is a true translation of the above described document.

MOST EXCELLENT SIR: The citizen José R. Berreyesa, residing near the pueblo of San José Guadalupe, before your excellency in due form of law appears and says, that it is now ten years since he settled upon and has established himself with his numerous family on this his rancho of San Vicente, Cañada de los Capitancillos, and since that time he has never omitted that diligence which was necessary on his part to get his despatch or title by which his legitimate property might be secured to him; for although in the year 1842 he received a title issued by Señor Don Juan B. Alvarado, yet as this was not in entire conformity with the espediente which I presented to his excellency, since it restricted me to one sitio, when, from the first commencement, my petition has always been for two sitios of ganado mayor, (two square leagues,) which I have actually in possession, as it is well known, with six hundred head of neat cattle; for this reason I could not admit the title which was sent to me at that time, and I myself went in person, and returned and delivered it to Don Manuel Jimeno in his own hands, stating to him the reasons why I was not satisfied with it, and as at that time the taking of Monterey occurred, I left that place, and I have not been able to return there since to attend to this important business, but now, as an opportunity offers, I do it, by one of my household, who goes to that place, through this petition, begging of you, if you think it right, to be pleased to decree that my corresponding title be issued and sent to me, and that it be in these

terms, to wit: from the point of the little hill, (punta de la lomita,) which is situated in the centre of the cañada towards the west to the plane (plan) of the Arroyo de los Yagas, between the mountain, (sierra,) and with all of the hills (lomeria) that belong to the narrow Cañada de los Capitancillos, and which was two leagues in length, a little more or less, and in width not a quarter of a league, not in its widest part, and that is where I have my house and establishment.

Therefore I most humbly ask of your excellency that you be pleased to give a propitious hearing to my petition, for which I shall always be grateful to your excellency.

San Vicente, Feb'y 10, 1844.

(Signed) JOSÉ R. BERREYESA.

Marginal note to the above:

MONTEREY, *Feb'y* 15, 1844.

Let the secretary of despatch give a report.

(Signed) MICHELTORENA.

SEÑOR GOVERNOR: Only one square league (sitio de ganado mayor) was granted to this petitioner, as appears by the respective espediente, and if his petition is to have a greater extent, it would be proper to let the judge of the pueblo of San José make his report, having previously cited the adjoining proprietors, and especially the adjoining neighbor, Justo Larios, with whom he formerly had a dispute.

I have no recollection of the interested party having delivered to me his title, and he had no business to deliver to me that document, and probably he does not know where he has put it; but if he desires a certified copy (testimonio) of the grant which was made to him, he may get and present the appropriate stamped paper.

Your excellency's better judgment will determine whatever you think fit.

Monterey, Feb'y 15, 1844.

MANUEL JIMENO.

MONTEREY, *Feb'y* 16, 1844.

As suggested by the secretary of my despatch, let the judge give a report, having first cited the adjoining proprietors; this being done, let it be returned to the interested party with the respective paper (papel respectivo) for the new title.

MICHELTORENA.

In obedience to the superior decree of the government of the 16 February of the present year, I summoned Don Justo Larios to appear before me, he being adjoining proprietor to the tract of land

mentioned in the foregoing petition presented by the interested party. He said that, in order to give his opinion, he had to reflect and to appear before the governor, but afterwards there was a mutual agreement, which was as follows, to wit: the angle (rincon) of the creek known by the name of Los Alamitos, which is opposite the point (punta) of the hill, will serve as a boundary between the two parties, and thus the interested parties were satisfied. This is all that I can report in regard to this matter.

Pueblo of San José, May 22, 1844.

ANTONIO MA. PICO.

MOST EXCELLENT GOVERNOR: The citizen Justo Larios being satisfied, it seems to me that there is no objection to the issuing of a new title.

Monterey, July 15, 1844.

MANUEL JIMENO.

MONTEREY, *July* 23, 1844.

Let the title issue.

MICHELTORENA.

*Exhibit W. H. C. No.* 2 *to Deposition of F. A. Sawyer.*

Title B, annexed the deposition of Juan B. Alvarado, December 10, 1853.

GEO. FISHER, *Sec'y.*

Page 99 of the transcript filed in this case, as amended in the 9th line from the top of the page 100, between the words valedero and titulo, being part of the fourth condition of said title, by the deposition of R. C. Hopkins, filed in this case.

The following is a correct translation of the above described document, title B, as so amended:

First Seal—Six Dollars.

Provisionally supplied by the maritime custom-house of Monterey for the years of 1842 and 1843.

ANTONIO MA. OSIO.

ALVARADO.

[SEAL.]

Juan B. Alvarado, Constitutional Governor of the Department of the Californias.

Whereas the citizen José Reyes Berreyesa has solicited, for his personal benefit and that of his family, the land known by the name of the Cañada de los Capitancillos, bounded on the north by the low hills next to the plan (immediates al plan) of the pueblo of San José; on the south by the mountain, (sierra;) on the east by the hills del Laurel; and on the west by the rancho of the citizen

Justo Larios, which has for boundary the angle made by the Arroyo Seco and that of the Alamitos, course to the south, the slope of the hill situated in the centre of the cañada, towards the east, until it reaches the mountain, (sierra,) the necessary steps having been taken, and inquiries made according to the law and regulations on the subject, by virtue of the power on me conferred, and in the name of the Mexican nation, I have granted to him the said land, declaring him owner in full property by these presents, subject to the approval of the departmental assembly, and on the following conditions:

1st. He may enclose it without injury to the crossings, roads and servitudes; he may enjoy it freely and exclusively, putting to whatever use or cultivation he may think fit, but within a year he shall build a house, and it shall be occupied.

2d. He shall solicit of the respective judge judicial possession, by virtue of this despatch, by whom the boundaries shall be marked, and landmarks shall be placed, and some fruit trees or wild trees of some utility.

3d. The land of which donation is made is one league (sitio) of ganado mayor, as is explained by the map which accompanies the espediente; the judge who shall deliver possession shall cause it to be measured in conformity to law, leaving the surplus which results to the nation for its convenient use.

4th. If he contravene these conditions he shall lose his right to the land, and it shall be open to denouncement by another.

Wherefore I order that the present title (el presente titulo) being held firm and valid, shall be registered in the proper book, and be delivered to the interested party (al interesado) for his protection and other purposes.

Given in Monterey the twentieth of August, 1842.

(Signed) ALVARADO.

MANUEL JIMENO,
*Secretary.*

Due notice of this despatch has been made in the book of records relating to the distribution of vacant lands, page 15, (foja 15.)

(Signed) JIMENO.

His excellency, the governor, has ordered that due note of this grant be made in the office of the prefect of the first district.

(Signed) JIMENO.

Let note be taken of this.

(Signed) ESTRADA.

Due note of this superior title has been made in the proper book in the office under my charge, on page 8, (foja 15.)

Monterey, Sept. 22, 1842.

(Signed) JOSÉ MA. COVARRUBIAS,
*Secretary of the Prefect.*

*Exhibit W. H. C. No. 3 to Deposition of F. A. Sawyer.*

Translation of the grant made by Juan B. Alvarado to Justo Larios, as it appears in the certified transcript from the land commission, filed in this court in this cause, contained on pages 90, 91, and 92 of said transcript.

Juan B. Alvarado, Constitutional Governor of the Department of the Californias.

Whereas the citizen Justo Larios has asked, for his own benefit and that of his family, the land known by the name of the Capitancillos, bounded by the sierra, by the arroyo Seco on the side of the establishment of Santa Clara, and by the rancho of the citizen José R. Berreyesa, which has for boundary the angle formed by the arroyo Seco and the arroyo de los Alamitos, course to the south, the slope of the hill situated in the centre of the cañada towards the east until it reaches the sierra, the necessary steps having been taken, and inquiries made according to the law and regulations on the subject, by virtue of the powers conferred upon me, in the name of the Mexican nation, I have granted him the said land, declaring it his property by these presents, subject to the approval of the departmental assembly, and to the following conditions:

1st. He may enclose it without injury to the passes, roads and servitudes; he may enjoy it freely and exclusively, using or cultivating it as may best suit him, but within one year he shall build a house, and it shall be inhabited.

2d. He shall solicit the proper judge to give him juridical possession in virtue of this despatch, by whom the boundaries shall be marked out, and upon which he shall place the proper monuments, and some fruit or wild trees of some utility.

3d. The land herein referred to is one league (sitio) of grazing land, more or less, as is explained by the map accompanying the espediente; the judge who shall give possession shall have it measured in conformity to law, leaving the surplus which remains to the nation for the purposes which may suit it.

Wherefore I order that this title being held firm and valid, shall be registered in the proper book, and be delivered to the grantee for his protection and other purposes.

Given at Monterey the 1st August, 1842.

Endorsed: Filed March 30, 1857.

JOHN A. MONROE, *Clerk.*
By W. H. CHEVERS, *Deputy.*

*Decree.*

At a stated term of the district court of the United States of America for the northern district of California, held at the court-room in the city of San Francisco, on Monday, the 30th day of

March, in the year of our Lord one thousand eight hundred and fifty-seven.

Present, the Honor. Ogden Hoffman, district judge.

THE UNITED STATES
v.
M. Z. B. BERREYESA et als. } D. C. 363.—L. C. 503.

On appeal from the decision of the U. S. Land Commission, &c.

This cause came on to be heard at this term, and was argued by counsel, and thereupon, in consideration thereof, it was ordered, adjudged, and decreed as follows, viz: that there is no error in the decision of the United States land commissioners in this case, and that the same be and is hereby affirmed, and this court doth further order, adjudge and decree, that the title of the claimants is valid, and the same is now hereby confirmed to them.

The land of which confirmation is made is situated in the county of Santa Clara, and is known by the name of San Vicente, being a portion of the place called the Cañada de los Capitancillos, adjoining the lands granted to Justo Larios, and containing one square league, to be located according to the description and within the boundaries set out in the original grant, and delineated in the map contained in the espediente, to both of which reference is made for a more particular description.

OGDEN HOFFMAN,
*U. S. Dist. Judge.*

Endorsed: Filed March 30, 1857.

JOHN A. MONROE, *Clerk.*
By W. H. CHEVERS, *Deputy.*

*Order granting Appeal.*

At a stated term of the district court of the United States of America for the northern district of California, held at the court-room in the city of San Francisco, on Wednesday, the first day of April, in the year of our Lord one thousand eight hundred and fifty-seven.

Present, the Hon. Ogden Hoffman, dist. judge.

THE UNITED STATES
vs.
M. Z. B. BERREYESA et als. } D. C. 363.—L. C. 503.

In this case, on motion of the district attorney, made in open court, it is ordered by the court that an appeal in behalf of the United States from the final decision of this court, rendered at the present term, be, and the same is hereby granted; and that a certified transcript of the pleadings, evidence, depositions, and pro-

ceedings in the said cause be sent to the Supreme Court of the United States without delay.

Endorsed: Filed April 1, 1857.

JOHN A. MONROE, *Clerk.*
By W. H. CHEVERS, *Deputy.*

*Deposition of John P. Brodie.*

United States District Court, northern district of Cal'a.

THE UNITED STATES
vs.
M. Z. B. BERREYESA et als. } No. 363.

Testimony taken in open court on the part of the United States, on Monday, April 6, 1857.

Present, Hon. M. H. McAllister, circuit judge; Hon. Ogden Hoffman, dist. judge; the U. S. district attorney, and Messrs. Thornton, Williams and Thornton, for claimants.

John P. Brodie, being duly sworn, says: I am acquainted with the Spanish language. I acquired a knowledge of that language from having lived in Mexico about thirty years. I am a native of Scotland. I was seventeen years old when I went to Mexico to live, in the year 1824. I have made a translation of the original papers in the U. S. surveyor general's office, a traced copy of which is filed in this case, and marked "Exhibit M. N," which translation I have compared with that traced copy and find it to be a faithful translation of the same. Said translation is marked as follows: "Brodie translation of Exhibit M. N." I have made a translation of the original grant by Governor Alvarado to José Reyes Berreyesa, dated August 20, 1842, and find it to be a faithful translation of the said original, as copied in the transcript in this case on pages 99 and 100. Said last translation is marked "Brodie translation of the Berreyesa grant." I have made a translation of the original grant to Justo Larios on file in the archives of the surveyor general's office. The translation of the original is also a faithful translation of so much of the transcript in this case as is found on page 91, beginning with the words "Por cuanto," and ending with the words "Estera habitada," containing twenty-three lines of the transcript on that page. So much of the translation herewith filed, marked "Brodie translation of Justo Larios' grant," as is found between the words "whereas" and "inhabited," containing twenty-five lines of said translation, is a faithful translation of the foregoing part of said transcript.

*Cross-examined.*

Question 1. In your translation of the "Exhibit M. N.," look at the word "end," in the latter part of the report of Antonio Maria Pico, dated May 22, 1844, and state what is the Spanish word in the original which you have there translated "end?"

4194

Answer 1. The word in the original is "punta."

Question 2. Is "end" the literal translation of the word "punta?"

Answer 2. I should think so.

Question 3. What is the word in the Spanish language which corresponds with the English word "point?"

Answer 3. Punta.

Question 4. In your translation of the grants of Berreyesa and Justo Larios contained in the record, in describing the direction of the dividing line between the ranchos mentioned in those two grants, you use the words, "which has for boundary the angle formed by the Dry creek and the creek of the Alamitos in a southerly direction, the foot (or base) of the hill situated in the centre of the glen, (cañada,) to the eastward, and reaching to the range of mountains, (sierras.)" State what is the Spanish word in those two grants that you have translated "foot, or base."

Answer 4. The Spanish word is "falda."

Question 5. Is that the most obvious translation of the word "falda?"

Answer 5. It is the most appropriate as applied to elevations or mountains.

Question 6. The witness has been shown a copy of Payno's history of the late war between the United States and Mexico, written in Spanish, in which he states he finds the work "pie" used to express the foot or base of a hill, and the word "falda" to express the side or slope of a hill.

Are you now prepared to say that you have never heard the word "falda" used by any respectable writer to describe the slope, instead of the foot or base of a hill?

Answer 6. I find it used to express slope by "Payno" in the history above mentioned, who is a respectable author or writer.

JOHN P. BRODIE.

Sworn to and subscribed April 6, 1857, before me.

W. H. CHEVERS,
*Deputy Clerk.*

*Brodie Translation of Exhibit M. N.*

Most Excellent Sir:

The citizen José R. Berreyesa, resident of the town (pueblo) of San José Guadalupe, before your excellency, as he best may and is permitted by law, presents himself and says, that now for ten years past he has been permanently settled and established with his numerous family in this his rancho of San Vicente, Cañada de los Capitancillos, and from that date he has neglected no effort to enable him to obtain his patent (or warrant) or a title, which may

secure to him his legal ownership; for, although in the previous year of forty-two, he received a title issued by Señor Don Juan B. Alvarado, but as it was not in conformity with the espediente which I presented to the superior authority, for the reason that it subjected me to one square league only, whereas from the beginning my petition has always been for two square leagues, and which I actually occupy, as is manifest and true, with the number of six hundred head of cattle; and for this reason I could not admit the title sent to me on that occasion; and I myself went in person and returned it and delivered it into the hands of Don Manuel Gimeno, telling *me* the reason I had for not agreeing to it; and as about that time the taking of Monterey was and happened, and I withdrew, and have not been able to return upon this most urgent business; but now, with the opportunity of an individual of my house going, I do so by means of this writing, supplicating your excellency, if you see proper, to order that my corresponding warrant (or patent) be drawn up and remitted to me in these terms: from the end of the little hill on the west, which is in the centre of the glen (cañada,) to the plain of the creek of Los Llages in the range of mountains (sierra,) and with all the hills which appertain to the said narrow glen (cañada) of the Capitancillos, and which is in length two leagues (sitios,) a little more or less, and in width not a quarter of a league, not even at the widest part, which is where I have my house and residence.

Wherefore I humbly pray your excellency to deign to look propitiously on this my petition, for which I shall ever live grateful.

San Vicente, 10th February, 1844.

JOSÉ R. BERREYESA.

MONTEREY, *Feb'y* 15, 1844.

Let the secretary of state report.

MICHELTORENA.

Señor Governor:

To the person representing there was granted one square league (or sitio for neat cattle) only, as is shown by the respective espediente, and if his pretension is to have a greater extent, it would be convenient that the judge of the town of San José should report, with citation of the contiguous neighbors, and principally the neighbor Justo Larios, with whom he formerly had a dispute.

I have no recollection of the person interested having delivered to me his title paper, and neither had he any cause for leaving this document with me, which probably he does not really know where he put; but should he want a certified copy of the grant which was made to him, he may present the corresponding stamped paper.

The superior discernment of your excellency will resolve what you believe convenient.

Monterey, February 15, 1844.

MANUEL JIMENO.

MONTEREY, *February* 16, 1844.

As the seretary of state reports, let the judge report, with citation of the contiguous neighbors; and so soon as this has been done, let the person interested return with the respective paper for the new title.

MICHELTORENA.

In compliance with what was ordered by the superior government on the sixteenth of February of the present year, I made to appear before me Don Justo Larios, as contiguous neighbor of the land of which mention is made in the foregoing petition, and having shown him the writing made by the person concerned, he said that, in order to form a judgment, it was necessary for him to consider the matter carefully, and to present himself to the government; but immediately afterwards a mutual agreement took place, which was in manner as follows: The corner (or angle) of the creek known by the name of the Alamillos, which confronts with the end of the hill, shall serve as a boundary to both parties, and to this the parties interested remained amenable.

This is all that at this time I can report upon the subject.

Pueblo of San José, May 22, 1844.

ANTONIO MA. PICO.

Most Excellent Señor Governor:

Agreeable with the conformity of the contiguous neighbor Justo Larios, it appears that there is no inconveniency to a new title being drawn up.

MANUEL JIMENO.

Monterey, July 15, 1844.

MONTEREY, *July* 23, 1844.

Let it be issued.

MICHELTORENA.

*Brodie Translation of the Berreyesa Grant.*

First Stamp—Six Dollars.

Qualified provisionally by the maritime custom-house of Monterey for the years 1842 and 1843.

ANTONIO MA. OSIO.

ALVARADO.

[SEAL.]

Juan B. Alvarado, Constitutional Governor of the Department of the Californias.

Whereas the citizen José Reyes Berreyesa has solicited for his personal benefit, and that of his family, the land known by the name of Cañada de los Capitancillos, bounded on the north by the low hills contiguous to the plain of the town (pueblo) of San José; on the south by the range of mountains (sierra;) on the east by the Laurel hills, and on the west by the rancho of the citizen Justo Larios, which has for boundary the angle formed by the Dry creek and the creek of the Alamitos in a southerly direction, the foot (or base) of the hill situated in the centre of the glen (cañada) to the eastward, and reaching to the range of mountains (sierra;) the previous procedure and investigations concerning it having been had, as is ordained by laws and regulations, in exercise of the powers which are conferred on me, in the name of the Mexican nation, I have granted to him the aforesaid land, declaring to him the ownership of it by these presents, subject to the approbation of the most excellent departmental junta, and under the following conditions:

1st. He may enclose it without prejudice to the cross-roads, roads and servitudes; he shall enjoy it freely and exclusively, dedicating it to the use and cultivation most suitable to him, but within one year he shall build a house and it shall be inhabited.

2d. He shall solicit the respective judge to give him juridical possession in virtue of this warrant (or patent,) by whom the boundaries shall be marked out, in the limits of which, besides the landmarks, he shall place some fruit trees or forest trees of some utility.

3d. The land of which donation is made is one square league, (or one sitio for neat cattle,) as is explained by the sketch (diseño) annexed to the espediente. The judge who gives him possession will cause it to be measured in conformity with the ordinance, the surplus which may result remaining to the nation for the convenient uses.

4th. Should he contravene these conditions, he shall lose his right to the land, and it shall be denounceable to another person.

Consequently I order, that the present title being held as firm and valid, note be taken of it in the respective book, and it be delivered to the party interested for his security and other purposes.

Given at Monterey the twentieth of August, one thousand eight hundred and forty-two.

JUAN B. ALVARADO.

MAN'L JIMENO, *Sec'y.*

Note has been taken of this warrant (or patent) in the book of registry of adjudication of vacant lands, on leaf 15.

JIMENO.

His excellency the governor has ordered that note be taken of this grant in the office of the prefect of the first district. 15.

JIMENO.

Let note be taken.

ESTRADA.

Note has been taken of this superior title, in the respective book of this office, under my charge, on leaf 8, in front.

Monterey, Sept. 22, 1842.

JOSÉ MARIA CASTAÑARES,
*Secretary ad interim.*

*Brodie Translation of the Justo Larios Grant.*

First Stamp—Six Dollars.

Qualified provisionally by the maritime custom-house of Monterey for the years 1842 and 1843.

ANTONIO MA. OSIO.

ALVARADO.

[SEAL.]

Juan B. Alvarado, Constitutional Governor of the Department of the Californias.

Whereas the citizen Justo Larios has solicited for his personal benefit, and that of his family, the land known by the name of the Capitancillos, bounded by the range of mountains (sierra,) by the Dry creek on the side of the establishment of Santa Clara, and by the rancho of the citizen José R. Berreyesa, which has for boundary the angle formed by the Dry creek and the creek of the Alamitos in a southerly direction, the foot (or base) of the hill situated in the centre of the glen (cañada) to the eastward, reaching to the range of mountains (sierra;) the procedure and investigations concerning it having been previously had, as is directed by laws and regulations, in exercise of the powers which are conferred on me, in the name of the Mexican nation, I have granted to him the aforesaid land, declaring to him the ownership by these presents, being subject to the approbation of the most excellent departmental junta, and under the following conditions:

1st. He may enclose it without prejudice to the cross-roads, roads, and servitudes; he shall enjoy it freely and exclusively, dedicating it to the use or cultivation most suitable to him; but within one year he shall build a house, and it shall be inhabited.

2d. The land mentioned is one square league, (or one sitio for neat cattle,) a little more or less, as is explained by the sketch (diseño) annexed to the respective espediente. The judge who gives him possession will cause it to be measured in conformity with the ordinance; the overplus which may result remaining to the nation for the convenient uses.